

Application for NEPA Assignment

Draft

*State of California Application for Assignment of Federal Railroad
Administration Responsibilities Pursuant to 23 USC 327*

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ACRONYMS AND ABBREVIATIONS

Authority	California High-Speed Rail Authority
CalSTA	California State Transportation Agency
Caltrans	California Department of Transportation
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
EEC	environmental and engineering consultant
EIR	environmental impact report
EIS	environmental impact statement
EMMA	Environmental Mitigation and Management Application
EO	Executive Order
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
HSR	high-speed rail
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
QA/QC	quality assurance/quality control
RC	regional consultant
RDP	Rail Delivery Partner
USC	United States Code

SIGNATURE PAGE

The Surface Transportation Project Delivery Program, 23 United States Code (USC) 327, authorizes the State of California to assume the responsibilities of the Federal Railroad Administration (FRA) for the environmental review, consultation, or any other action required under the National Environmental Policy Act (NEPA) and other federal environmental laws pertaining to the California High-Speed Rail (HSR) System and other railroad projects as identified. This program is also called the National Environmental Policy Act (NEPA) Assignment Program. Acting through the California State Transportation Agency (CalSTA) and the California High-Speed Rail Authority (Authority), the State of California is applying to assume the responsibilities of FRA under the NEPA Assignment Program. This application has been prepared in accordance with the procedures set forth in the Surface Transportation Project Delivery Program Application Requirements at 23 Code of Federal Regulations (CFR) Part 773.

Submitted by the Governor of California:

Edmund G. Brown Jr.

Date

EXECUTIVE SUMMARY

The State of California, working through its State Transportation Agency (CalSTA) and High-Speed Rail (HSR) Authority (Authority) is submitting this application to the Federal Railroad Administration (FRA) to assume FRA's responsibilities under the National Environmental Policy Act (NEPA) and other federal environmental laws authorized by the Surface Transportation Project Delivery Program, 23 USC 327, also known as NEPA Assignment. This application seeks approval to assume FRA's responsibilities as lead, cooperating, or participating agency, as appropriate, for the environmental review, consultation, or other actions necessary for projects comprising the HSR system. The State also requests assignment for projects that directly connect to stations on the HSR system such as the Los Angeles Link Union Station and West Santa Ana Branch extension. Additionally, the State requests assignment for the ACEforward project on the Altamont Corridor Expressway.

This application includes an accounting of the resources and policies procedures that currently exist to administer the Authority's environmental program. It also describes proposed changes that would enable the Authority to assume the additional responsibilities of the NEPA Assignment Program, including the creation of a new, dedicated team within the Authority focused on compliance with NEPA and other federal environmental laws.

The application addresses the following components, as required by the following sections of the NEPA Assignment regulation (23 CFR 773):

- §773.107: Pre-application requirements (see [Section 2](#) below).
- §773.109(a)(1): Classes of railroad projects for which the Authority is requesting NEPA responsibility (see [Section 3](#) below).
- §773.109(a)(2): Federal environmental laws other than NEPA for which the Authority is requesting responsibility (see [Section 4](#) below).
- §773.109(a)(3)(i): Existing organization and procedures (see [Section 5](#) below).
- §773.109(a)(3)(ii): Changes to be made for assignment of responsibilities (see [Section 6](#) below).
- §773.109(a)(3)(iii): Legal sufficiency (see [Section 7](#) below).
- §773.109(a)(3)(v): Project delivery methods (See [Section 5](#) below).
- §773.109(a)(4)(i): Staff dedicated to additional functions (see [Sections 6](#) and [8](#) below).
- §773.109(a)(4)(ii): Changes to the organizational structure (see [Section 6](#) below).
- §773.109(a)(4)(iii): Use of outside consultants for the program (See [Section 6](#) below).
- §773.109(a)(5): Financial resources under the program (see [Section 8](#) below).
- §773.109(a)(6): Certification of State's authority to assume the responsibilities of the Secretary and consent to exclusive federal court jurisdiction (See Appendix A).
- §773.109(a)(7): Certification that the California Public Records Act (codified as California Government Code §§ 6250 through 6276.48) is comparable to the federal Freedom of Information Act (see Appendix B).

This application combines multiple regulatory requirements under shared headings, when appropriate, to create a more readable and readily understood document. Beginning with Section 2, each section heading in the application cites the regulatory requirement in 23 CFR 773 addressed by the section's narrative content.

1 INTRODUCTION

1.1 Statewide Rail Modernization

CalSTA's mission is to develop and coordinate the policies and programs of the state's transportation entities to provide a safe, sustainable, integrated, and efficient transportation system that contributes to achieving statewide mobility, safety, and air quality objectives. The State funds intercity, commuter, and urban rail projects and has developed a new [2018 Rail Plan](#) which provides an exciting new framework for planning and implementing California's rail network for the next 20 years and beyond. The Rail Plan is a strategic plan with operating and capital investment strategies that will lead to a coordinated, statewide travel system.¹

Auto congestion, coupled with the economic losses attached to congestion, along with aggressive air quality and greenhouse gas emission targets, make the case for shifting travel mode shares toward rail and transit. Rail provides a safe, quality and efficient transportation choice for Californians. It is cost-effective, and often the best-value investment in transportation infrastructure that minimizes impacts on our communities and supports economic growth. Rail can also help reduce current highway and air transportation congestion, helping to achieve the aggressive air quality and emission targets. The HSR system is an integral part of the statewide effort to invest in transportation solutions that meet the state's growing needs.

1.2 HSR System Overview

Within CalSTA, the Authority, a state entity created in 1996, is responsible for planning, designing, building and operating the first high-speed passenger rail service in the nation. The Authority is developing the entire HSR system in conformance with its policy that all work—planning, design, construction, and operation—must be conducted in a manner that ensures the safety and security of passengers, employees, contractors, emergency responders, and the public.

Traveling at speeds capable of 220 miles per hour, Phase 1 of the HSR system will run from San Francisco to the Los Angeles basin, connecting the megaregions of the state, contributing to economic development and a cleaner environment, creating jobs, and preserving agricultural and protected lands. Phase 2 of the system will extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. Figure 1 provides an overview of the proposed HSR system.

The Authority is designing the HSR system to meet the requirements of Proposition 1A (The Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century), including the ability to achieve nonstop travel time of 2 hours and 40 minutes between San Francisco and Los Angeles. Because of the system size, and because it will run through areas of the state with vastly different geographical, environmental, and economic issues, the project has been divided into 10 project sections for environmental review and approval purposes, described further in Section 1.4.

¹ The 2018 Rail Plan was released on October 11, 2017, for a 60-day public comment period. To learn more, please visit www.dot.ca.gov/californiarail/



Figure 1-1 - HSR System overview

1.3 California Rail Modernization History and Legislation

California has evaluated the potential for high-speed rail for several decades. In the mid-1990s, planning began in earnest as it became clear that the state's growing population was putting an increasing strain on its highways, airports, and conventional passenger rail lines. At the federal level, as part of the High-Speed Rail Development Act of 1994, California was identified as one of five national corridors for high-speed rail planning. In that same timeframe, the California Legislature created the Intercity High-Speed Rail Commission and charged it with determining the feasibility of a California HSR system. In 1996, the High-Speed Rail Commission issued a report that concluded that such a project was indeed feasible. That same year, the Legislature created the California High-Speed Rail Authority, tasking it with preparing a plan and design for constructing a system to connect the state's major metropolitan areas.

In 2005, the Authority, together with its federal partner, the FRA, issued a program-level Environmental Impact Report/Environmental Impact Statement (EIR/EIS)^{2,3}. That document described the system and its potential impacts on a statewide scale. Through that process, the Authority received and reviewed more than 2,000 public and government agency comments on the draft document. The FRA and the Authority used that program-level EIR/EIS to determine the preferred corridors and stations for the system.

In November 2008, the state's voters approved the bond measure Proposition 1A, making it the nation's first voter-approved financing mechanism for high-speed rail. In 2009, the American Recovery and Reinvestment Act made \$8 billion in federal funds available nationwide to help stimulate the economy, create new jobs, and foster development of new rail manufacturing enterprises. California sought and successfully secured approximately \$3.4 billion in ARRA and other funds made available through federal appropriations and grants. The Authority earmarked these funds for planning and environmental work for Phase 1 of the system (see Section 1.4). The grant agreement between the FRA and the Authority for the ARRA funding obligated the Authority to produce environmental documents for Phase 1 in compliance with NEPA for FRA's review and approval. ARRA funds were also used to support construction in the Central Valley.

In 2012, Governor Edmund G. Brown, Jr. highlighted the benefits of the HSR system in his *State of the State* address and declared that high-speed rail was a priority for his Administration. Also in 2012, the Authority adopted its 2012 Business Plan that laid out a new framework for implementing the HSR system, in concert with other state, regional, and local rail investments, as part of a broader statewide rail modernization program. In that same year, the Legislature approved—and Governor Brown signed into law—Senate Bill 1029 (Budget Act of 2012)

NEPA Assignment through the Surface Transportation Project Delivery Program

The Safe Accountable Flexible Efficient Transportation Equity Act – a Legacy for Users (SAFETEA-LU) of 2005, established a Surface Transportation Project Delivery Pilot Program which allowed certain states to assume the responsibilities of the Secretary of USDOT for highway projects under NEPA and other federal environmental laws. The Moving Ahead for Progress in the 21st Century Act (MAP-21), the 2012 surface transportation authorization bill, modified the program to allow all states to enter into the program and also expanded the projects eligible for Assignment to include rail, public transportation, and multimodal projects. Although several states have taken advantage of the program for highways, no state has yet applied for any of the other, additional modal project types.

² The Authority must comply with the California Environmental Quality Act (CEQA) and NEPA and therefore issues joint CEQA/NEPA documents. This is discussed further in Section 5.10.

³ In 2008, the FRA and the Authority prepared a Bay Area to Central Valley Program EIR/EIS that further examined the San Francisco Bay Area to Central Valley region as the second part of programmatic analysis in the tiered environmental review process. That document was finalized in 2012.

approving almost \$8 billion in federal and state funds for the construction of the first high-speed rail investment in the Central Valley and multiple bookend and connectivity projects throughout the state. Work is underway on these major transportation infrastructure investments.

Legislation passed in 2014 continuously appropriated to the Authority 25 percent of proceeds from State auctions of greenhouse gas emissions allowances issued under the State's cap and trade program. More recently, in 2017, legislation passed that creates a robust state funding program administered by CalSTA for broad rail investments that will fund transformative capital investments to modernize intercity, commuter, and urban rail services, and integrate these services to grow significantly rail service and ridership.

1.4 Environmental Overview

The Authority is now conducting environmental reviews at the project level based on the program-level EIR/EIS. Two project sections—Merced to Fresno and Fresno to Bakersfield—have completed their project-level environmental documents and have selected alignments and stations, resulting in the Authority awarding construction contracts for more than 119 miles of HSR alignment in the Central Valley. Since construction started in 2014, the contractors have made significant progress with 14 currently active construction sites and many more expected in the coming months. Additional information on construction, both planned and underway, can be found at <https://build.hsr.com>.

Although construction is ongoing and significant progress has been made to advance the HSR system, more work remains that must be done to complete the required environmental reviews for the remaining Phase 1 project sections. The Authority and FRA are currently developing Draft EIR/EIS documents for these Phase 1 project sections:

- [San Francisco to San Jose](#)
- [San Jose to Merced](#)
- [Merced to Fresno Supplemental \(Central Valley Wye\)](#)
- [Fresno to Bakersfield Supplemental \(Locally Generated Alternative\)](#)
- [Bakersfield to Palmdale](#)
- [Palmdale to Burbank](#)
- [Burbank to Los Angeles](#)
- [Los Angeles to Anaheim](#)

In addition to the project documents underway for the Phase 1 sections of the HSR system, the Authority will also complete the necessary planning, environmental analysis, design and construction required to deliver the project sections comprising Phase 2 of the HSR system:

- [Merced to Sacramento](#)
- [Los Angeles to San Diego](#)

The FRA is also a key partner in other projects within the state. Among others, these include:

- Los Angeles County Metropolitan Transportation Authority (LA Metro) Link Union Station (Link US) where the FRA serves as the federal lead agency under NEPA;
- Altamont Corridor Express ACEforward where the FRA also serves as the federal lead agency under NEPA; and
- LA Metro West Santa Ana Branch Transit Corridor where the FRA was invited to serve as a cooperating agency under NEPA, and the Federal Transit Administration serves as the lead agency.

Definitions of NEPA terms used in this application:

Lead agency – the agency responsible for supervising the preparation of NEPA documentation on a federal action. (40 CFR §1501.5)

Cooperating agency – an agency, other than the lead agency, with legal jurisdiction over the proposed action or an agency with special expertise related to subjects that will be addressed in the environmental study. (40 CFR §1501.6)

Participating agency – any federal agency invited by the lead agency to participate in the environmental review process. (23 USC 139 (d))

1.5 Accelerating Environmental Reviews

Delivering these projects demands innovative approaches to plan, study, consider and determine the most appropriate alignments, and station locations, as well as power and maintenance facilities. The Authority is committed to searching continuously for opportunities to create process efficiencies without reducing the critical studies and analyses required by federal and state law.

On January 24, 2017, President Donald Trump issued Executive Order (EO) 13766, “[Expediting Environmental Reviews and Approvals for Infrastructure Projects](#)”, which recognizes that while “infrastructure investment strengthens our economic platform, makes America more competitive, creates millions of jobs, increases wages for American workers, and reduces the costs of goods and services for American families and consumers...too often, infrastructure projects...have been routinely and excessively delayed by agency processes and procedures.”⁴ EO 13766 seeks to streamline and expedite environmental reviews and approvals by having the state governor or any executive agency or department head request the White House Council on Environmental Quality (CEQ) designate a project as a high priority. This designation should consider a project’s importance to the general welfare, value to the nation, environmental benefits, and other factors deemed relevant by the council.

In response to EO 13766, Governor Brown sent a letter to President Trump in February 2017, requesting that the CEQ designate 10 projects in California, including the HSR program, as high-priority projects.⁵ On May 12, 2017, the governor sent President Trump a follow-up letter requesting that the president delegate NEPA responsibilities to the state “so that California can expedite its High-Speed Rail project.”⁶

Following the governor’s May letter to President Trump, CalSTA Secretary Brian Kelly submitted a written statement of interest on June 16, 2017, to U.S. Secretary of Transportation Elaine Chao.⁷ The letter declared the state’s interest “in the Surface Transportation Project Delivery Program...to assume responsibilities for compliance with NEPA and all other federal environmental laws pertaining to the review or approval of all aspects of the High-Speed Rail System, including ongoing and all future actions.” On July 12, Acting FRA Administrator Heath Hall responded to Secretary Kelly acknowledging receipt of the letter of interest and citing a pre-application workshop held in Washington, D.C. with the FRA and representatives from CalSTA and the Authority as a first step in the application process.⁸ Since that time, the Authority has worked closely with FRA to develop an approach that will enable the Authority to administer the responsibilities of FRA under NEPA and all other relevant federal environmental laws.

Through this coordination, the Authority has identified organizational and procedural changes to its environmental program that it will implement to carry out the NEPA Assignment Program. As a

⁴ The process created in EO 13766 was further refined by [EO 13807 “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects](#) issued on August 14, 2017.

⁵ See Appendix C for correspondence related to this application for NEPA Assignment.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

prelude to assuming these environmental review responsibilities, the Authority has conducted briefings with those federal agencies that have permitting or review responsibilities for the HSR system. These briefings help ensure that the Authority's proposed NEPA Assignment approach satisfies all requirements and alleviates any concerns of the federal partners who will be relying on Authority's environmental documentation to support permitting decisions or other actions required by law.

The State of California is well aware of the care and consideration that must be given to environmental and project decision-making when assuming the role of the federal agency. It has experience in administering the procedural and substantive requirements transferred to the state by NEPA Assignment. The California Department of Transportation (Caltrans), the Authority's sister agency, has had an agreement for NEPA Assignment with the Federal Highway Administration since 2007. Through its relationship with Caltrans, the Authority has attained an in-depth understanding of how to implement the NEPA Assignment process. The Authority has applied the benefits of Caltrans' "lessons learned" to create an approach and organizational structure that will improve the efficiency of the environmental reviews the Authority will conduct. This approach will also allow the Authority to maintain the critical protections necessary for environmental stewardship.

2 PRE-APPLICATION REQUIREMENTS (23 CFR 773.107)

The NEPA Assignment regulations specified in 23 CFR 773.107 require that applicants satisfy several conditions before submitting the final NEPA Assignment application. The Authority has worked closely with FRA to take the necessary steps to fulfill those requirements. These pre-application requirements are summarized below, with information showing how each requirement is being met.

2.1 Pre-Application Meeting (773.107(a))

The regulations require the State to request and participate in a pre-application coordination meeting with the relevant USDOT agency. On July 6 and 7, 2017, representatives from CalSTA and the Authority traveled to Washington, DC to participate in a pre-application coordination meeting facilitated by FRA. The purpose of the meeting was to provide the state with a comprehensive briefing on the NEPA Assignment application process requirements and discuss the initial strategy for the state's application. A second workshop, held in Sacramento on August 29 and 30, 2017, allowed participants to review the progress made in preparing the state's draft application. A third workshop, in Washington, D.C. on October 11 and 12, provided the Authority the opportunity to discuss with FRA the proposed approach to Assignment in detail to inform the application. These coordination meetings provided an opportunity for participants to share information and discuss the optimal approach for implementing NEPA Assignment responsibilities. The exchange of ideas and information helped inform this draft application.

2.2 State Public Comment Process (773.107(b))

The regulations require the State to give the public notice of its intent to participate in the NEPA Assignment Program and to solicit public comment for at least 30 days before submitting the application. Accordingly, CalSTA and the Authority will post this draft application not later than 30 days prior to submitting a final application to the FRA. The request for public comment will include soliciting the views of other federal and state agencies and tribal governments that may have consultation or approval responsibilities associated with the projects included in this draft application for NEPA Assignment. Upon completion of the public comment period, all comments received will be reviewed and responses developed for inclusion in the final application submitted to FRA.

2.3 Sovereign Immunity Waiver (773.107(c))

Before applying for NEPA Assignment, the regulations require that "The State must identify and complete the process required by State law for consenting and accepting exclusive Federal court jurisdiction with respect to compliance, discharge, and enforcement of any of the responsibilities being sought." [Assembly Bill 135](#), signed by Governor Brown on September 16, 2017, satisfied this requirement. A certification to this effect, executed by CalSTA's chief counsel and the Authority's acting chief counsel, is included in Appendix A.

2.4 Authority Under State Laws (773.107(d))

The regulations require that "[t]he State must determine that it has laws that are in effect that authorize the State to take actions necessary to carry out the responsibilities the State is seeking and a public records access law that is comparable to the [federal] Freedom of Information Act." Appendix A and B include certifications to this effect, executed by CalSTA's chief counsel and the Authority's acting chief counsel.

2.5 Assignment of Federal Highway Administration Responsibilities to the State (773.109(c))

The regulations require that the state "show that FHWA [Federal Highway Administration] has assigned to the state, or the state has requested assignment of, the responsibilities of FHWA for one or more highway projects within the state under NEPA." Since 2007, Caltrans has performed federal responsibilities for environmental decisions and approvals under NEPA for highway projects in California funded by FHWA through a Memorandum of Understanding (MOU)

executed pursuant to 23 USC 327 (the NEPA Assignment program). More on the Caltrans NEPA Assignment Program can be found at www.dot.ca.gov/env/nepa/index.html.

3 SCOPE OF ASSIGNMENT (23 CFR 773.109(a)(1))

Pursuant to 23 CFR section 773.109(a)(1), the State of California, acting through CalSTA and the Authority, is applying under the Surface Transportation Project Delivery Program to assume the responsibilities of the FRA for the environmental review, consultation, or other actions necessary for the following:

- (1) Projects necessary for the design, construction, and operation of the HSR System, including the following project sections and any ancillary facilities (including electrical interconnections):
 1. Merced to Sacramento
 2. San Francisco to San Jose
 3. San Jose to Merced
 4. Merced to Fresno (including the Central Valley Wye Supplemental EIS)
 5. Fresno to Bakersfield (including the Supplemental EIS for the Locally Generated Alternative)
 6. Bakersfield to Palmdale
 7. Palmdale to Burbank
 8. Burbank to Los Angeles
 9. Los Angeles to Anaheim
 10. Los Angeles to San Diego
- (2) Projects directly connected to stations on the HSR System, including the following Los Angeles County Metropolitan Transportation Authority projects:
 1. Link Union Station
 2. West Santa Ana Branch Transit Corridor

The FRA, and the State may identify additional projects that fall within this class of projects and, by mutual agreement of the parties, determine that such projects are appropriate for assignment under the Assignment MOU. In such circumstances, no amendment to this application or the MOU would be necessary.

- (3) The ACEforward project within the Altamont Corridor Express system.

For those projects assigned to the Authority, its role and responsibilities could be those carried out as a lead agency, cooperating agency, or participating agency.

Further, the State of California may seek assignment under NEPA for the environmental review, consultation, or other actions for other railroad projects not included in the projects described above. If necessary, the State of California would amend its application and the NEPA Assignment MOU using the procedure set forth in 23 CFR 773.113(b).

4 FEDERAL LAWS OTHER THAN NEPA FOR WHICH THE STATE REQUESTS RESPONSIBILITY (773.109(a)(2))

In addition to NEPA, the State of California is requesting to assume FRA's responsibility for all other federal environmental laws, reviews, consultations, or activities as well as the regulations governing their implementation in regard to the projects described in Section 3 of this application. This responsibility is limited to the environmental laws on the list below, which is derived from Appendix A of 23 CFR 773. The Authority seeks to assume these responsibilities on the effective date of the NEPA Assignment MOU. The Authority does not intend to phase in any aspect of its assumption of responsibilities.

- Environmental Reviews
 - Efficient Environmental Reviews for Project Decisionmaking, 23 USC § 139 and 42 USC § 24201.⁹
- Air Quality:
 - Clean Air Act (CAA), 42 U.S.C. §§ 7401–7671q, with the exception of any conformity determinations.
- Noise:
 - Noise Control Act of 1972, 42 U.S.C. §§ 4901-4918.
- Wildlife:
 - Endangered Species Act of 1973 (ESA), 16 U.S.C. §§ 1531–1544.
 - Marine Mammal Protection Act, 16 U.S.C. §§ 1361-1423h.
 - Anadromous Fish Conservation Act, 16 U.S.C. §§ 757a-757f.
 - Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661–667d.
 - Migratory Bird Treaty Act, 16 U.S.C. §§ 703–712.
 - Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. §§ 1801-1891d.
- Hazardous Materials Management:
 - Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675.
 - Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. §§ 9671-9675.
 - Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992k.
- Historic and Cultural Resources:
 - National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306101, et seq., except to the extent FRA is required to retain responsibility for Government-to-Government consultation with Indian tribes.
 - Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa– 479mm.
 - Title 54, Chapter 3125 – Preservation of Historical and Archaeological Data, 54 U.S.C. §§ 312501-312508.

⁹ Section 11503 of the Fixing America's Surface Transportation Act (FAST Act) made, to the maximum extent practicable, the project delivery provisions in 23 USC 139 applicable to FRA railroad projects. FRA does not apply such provisions to projects initiated before the date of enactment (December 4, 2015), including the ongoing EISs for the HSR system. However, should the Authority initiate a new environmental document, the requirements of 23 USC 139 would apply.

- Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. §§ 3001–3013; 18 U.S.C. § 1170.
- Social and Economic Impacts:
 - American Indian Religious Freedom Act, 42 U.S.C. § 1996.
 - Farmland Protection Policy Act (FPPA), 7 U.S.C. §§ 4201– 4209.
- Water Resources and Wetlands:
 - Clean Water Act, 33 U.S.C. §§ 1251–1387 (Section 401, 402, 404, 408, and Section 319).
 - Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f–300j–26.
 - Rivers and Harbors Act of 1899, 33 U.S.C. § 403.
 - Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271–1287.
 - Emergency Wetlands Resources Act, 16 U.S.C. § 3901 and 3921.
 - Flood Disaster Protection Act, 42 U.S.C. §§ 4001–4130.
 - General Bridge Act of 1946, 33 U.S.C. §§ 525–533.
 - Coastal Barrier Resources Act 15 U.S.C. §3501 -3510
 - Coastal Zone Management Act, 16 U.S.C. §§ 1451-1466.
- Parklands and Other Special Land Uses:
 - 23 U.S.C. § 138 and 49 U.S.C. § 303 (Section 4(f)).
 - Land and Water Conservation Fund (LWCF) Act (Section 6(f)), 54 U.S.C. §§ 200302-200310.
- Executive Orders – The State also requests assignment of FRA's responsibilities for all applicable existing executive orders directing the agency's actions under NEPA and other federal environmental law for which responsibility is assigned to the State by FRA.

5 DESCRIPTION OF EXISTING ORGANIZATION AND PROCEDURES FOR ENVIRONMENTAL REVIEW RESPONSIBILITIES (773.109(a)(3)(i))

This section describes the organization and procedures the Authority currently has in place to guide the development of documents, analyses, and consultations required to fulfill environmental review responsibilities. The description encompasses the Authority's current environmental review process, including its delivery structure, organizational configuration, and procedures for quality assurance and quality control (QA/QC), legal review, document control, record retention, and other tools and guidance.

This section also describes the differences between the state and federal environmental review processes. It identifies any standard mandated by state law, regulation, executive order, or policy that is not applicable to the federal environmental review. The current practices described here inform and provide the foundation for the changes (described below in Section 6) that the Authority will make to assume under NEPA Assignment the responsibilities FRA exercises for environmental reviews.

5.1 California State Transportation Agency and California High-Speed Rail Authority

CalSTA, a cabinet-level agency focused solely on addressing the state's transportation issues, was established in 2013 as part of Governor Brown's Government Reorganization Plan No. 2. It oversees the activities of eight state transportation-related entities—including the Authority and Caltrans—and develops and coordinates the policies and programs of the state's transportation network to achieve the state's mobility, safety, and air quality objectives.

The California High-Speed Rail Authority, created in 1996 by the Legislature and moved under the purview of CalSTA in 2013, has the statutory duty under Public Utilities Code §185030 to "direct the development and implementation of intercity high-speed rail service that is fully integrated with the state's existing intercity rail and bus network, consisting of interlinked conventional and high-speed rail lines and associated feeder buses. The high-speed rail system must be fully coordinated and connected with commuter rail lines and urban rail transit lines developed by local agencies, as well as other transit services, through the use of common station facilities whenever possible."

5.2 California High-Speed Rail Authority's Organizational and Program Delivery Structure

The Authority's organizational structure is configured to provide efficient, effective, and accountable delivery of one of the largest, most ambitious public transportation programs in U.S. history. By its very nature, a program of this magnitude, scope, and complexity requires an adaptive management approach. The Authority's approach has to be capable of synthesizing diverse interests and perspectives, managing numerous, often concurrent complex activities, achieving and maintaining stakeholder and public support, interacting with multiple governmental and regulatory jurisdictions, and providing the required human, technical, and material resources over the program's extended life cycle.

The HSR system cannot be delivered by a static organization or business model. A program of this scope and complexity requires shared responsibility between the public and private sectors. Both have to operate in an evolving, flexible partnership that brings the appropriate expertise, experience, and foresight to each stage of program delivery. This is a mutual responsibility for the project as it moves from planning and design to service and construction contracts, to complex long-term concession agreements. However, one constant remains throughout the phases of program delivery: inherently governmental functions always remain with the Authority.

5.2.1 Authority's Board of Directors and Executive Leadership

The Authority's Board of Directors, established in 2003 by California Public Utilities Code §185020, is responsible for overseeing the planning, design, construction, and operation of the nation's first high-speed rail system. Nine directors sit on the board: five appointed by the governor, two appointed by the Senate Committee on Rules, and two appointed by the Speaker of the Assembly. Each director represents the entire state and serves a four-year term.

The Board of Directors sets policy directives for the Authority and for developing the Authority's key policy documents, which must be approved by the board. Key policy documents include the Authority's business, financial, and strategic plans.

California Public Utilities Code 185033 requires the Authority to prepare a business plan every two years for submittal to the Legislature. The plan is an overarching policy document used to inform the Legislature, the public, and stakeholders about HSR project implementation. This plan assists the Legislature in making policy decisions regarding the overall HSR program. The business plan must include:

- The type of service the Authority anticipates it will develop.
- A description of the HSR system's benefits.
- HSR project milestones.
- Forecasts of ridership levels, operations and maintenance costs, and capital costs.
- Estimate of anticipated funding sources.

The Authority's chief executive officer reports directly to the Board of Directors. The chief executive officer seeks the board's guidance and approval on a broad range of issues regarding the ongoing HSR program. Among others, these include decisions regarding project section alignments, certification of environmental documents, design, and construction contracting, and business plan content. The Board is also responsible for certain critical tasks that are highly important for this application. These include the final decisions on EIR/EIS documents and under NEPA Assignment, approval and publication of the records of decision.¹⁰

Day-to-day operations of the Authority are under the purview of the chief executive officer supported by an executive committee comprised at this time of the interim chief executive officer, chief financial officer, chief operating officer, and chief program officer. The executive committee provides overall leadership and direction to the Authority by developing and implementing a vision, directing and guiding the decision-making bodies reporting the Executive Committee, and informing the Board of Directors and its subcommittees on the progress of the program. Figure 5-1 illustrates the Authority's integrated organizational structure.

¹⁰ When an EIS is prepared, NEPA requires lead agencies to prepare a record of decision setting forth the agency's decision on the project, describing the alternatives considered, and stating whether mitigation measures have been adopted (40 C.F.R. § 1505.2).

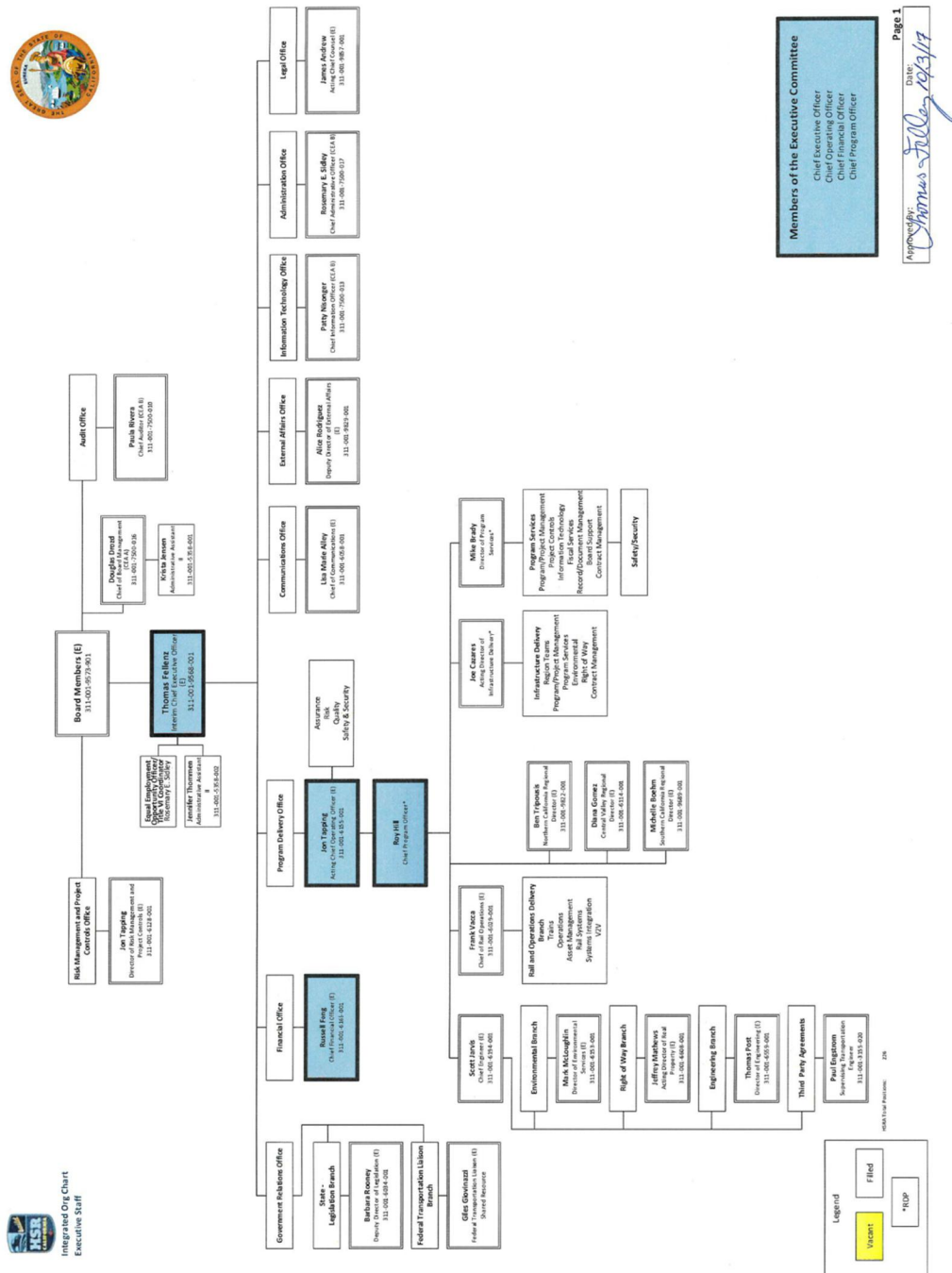


Figure 5-1 Authority's Integrated Organizational Chart.

5.2.2 Rail Delivery Partner

As the Authority has evolved to meet its changing needs, it has procured professional services through competitive processes to provide integration, program delivery, and program management services by key consultants known collectively as the Rail Delivery Partner (RDP). RDP provides:

- strategic advice,
- support for business planning,
- continued development and management assistance to the Authority,
- specialized technical expertise in program management,
- program and project controls,
- engineering and environmental services,
- right-of-way management,
- planning, ridership and revenue modeling,
- operations and maintenance planning,
- cost estimating, and
- construction management support services.

RDP also helps Authority staff provide oversight with respect to other consultants and third parties. As the program has advanced into construction in recent years, HSR has directed the RDP to expand its focus on program delivery, and systems and project integration. The Authority's contract with RDP specifies that the responsibilities for program oversight and strategic planning—including setting program policies and direction, project planning, and determining delivery strategies and phasing—are retained by the Authority. The Authority contracts directly with design, construction, equipment, operations providers, and other project delivery services.

5.2.3 Environmental Services Branch

The Authority's Environmental Services Branch develops and directs policy and strategy related to a broad range of environmental issues. It is also responsible for the development, review, and final approval of all environmental documentation and supporting materials. The director of the Environmental Services Branch makes recommendations through the executive leadership to the Authority's Board of Directors regarding environmental documentation and permitting decisions and enforces environmental compliance during project development and delivery. The branch comprises approximately 50 full-time equivalents from RDP and approximately 10 state employees. Its environmental documentation and permitting activities are supported by the Authority's general counsel and legal team, including outside counsel, who advise on legal strategy and compliance considerations related to the environmental review and permitting of the HSR project sections. Figure 5-2 illustrates the organizational structure of the Environmental Services Branch whose staff includes NEPA practitioners, senior advisors, environmental managers, specialists and subject-matter experts.¹¹ These experts cover such technical fields as protected species, wetlands, cultural resources, environmental justice, parklands, archaeology, and other disciplines required for environmental documentation and reviews under federal and state law.

The Environmental Services Branch presently is also responsible for coordinating with FRA to ensure that the environmental reviews for each of the project sections are consistent with NEPA and other related Federal environmental laws. As the Federal lead agency, FRA presently is involved in many aspects of the environmental review process including the initiation of an EIS, development of the purpose and need

¹¹ As noted previously, the Authority prepares environmental documents in accordance with CEQA and NEPA. Both laws have similar requirements, discussed further in Section 5.10. In this application for NEPA Assignment, discussion of environmental documentation will focus on NEPA and federal requirements.

and the range of alternative, public outreach, permitting and compliance strategy, document development and review, and post-approval construction monitoring and oversight.

At Authority headquarters in Sacramento, the staff of the Environmental Services Branch fall into several broad categories: programmatic management; quality control and assurance; consultation, permitting, mitigation, and compliance; special projects; and the geographic regions—Northern California, Central Valley, and Southern California—that correspond to the environmental reviews for the individual project sections comprising the HSR system and have the primary responsibility for NEPA document development. The leadership team in Sacramento develops the scope of the high-speed rail system and the framework to deliver the system successfully. Specifically, the responsibilities of the Environmental Services Branch include:

- Briefing the Authority's executive leadership and Board of Directors on environmental status and progress.
- Providing technical direction and oversight of environmental-related resources through contract management.
- Establishing and directing policy related to such environmental issues as NEPA/CEQA compliance, protected species, wetlands, cultural/historic resources, environmental justice, parklands, and other technical disciplines requiring specialized expertise.
- Coordinating with the Authority's legal counsel on issues that may arise in the environmental review and permitting process that relate to legal compliance and require legal strategy.
- Communicating routinely with the environmental teams in the Authority's three regional offices to give policy direction that informs project decisions and facilitate early identification and resolution of potentially problematic issues.
- Approving and signing environmental permits and approvals.
- Verifying, enforcing and reporting environmental compliance during project development, construction, and operations, including the implementation of environmental commitments.
- Developing and managing relationships with federal and state permitting/regulatory agencies, including formal and informal agreements that address such areas as process alignment, funding for staff positions, cooperating and participating agency roles and responsibilities, and others matters that affect consultation and permit acquisition.
- Approving all environmental documentation and supporting materials before releasing them for distribution to cooperating agencies, stakeholders, and the public.
- Delivering staff recommendations to the Board of Directors for approval of environmental documents, including alternatives analyses, identification of the preliminary preferred alternative, and draft, final, and supplemental environmental studies.

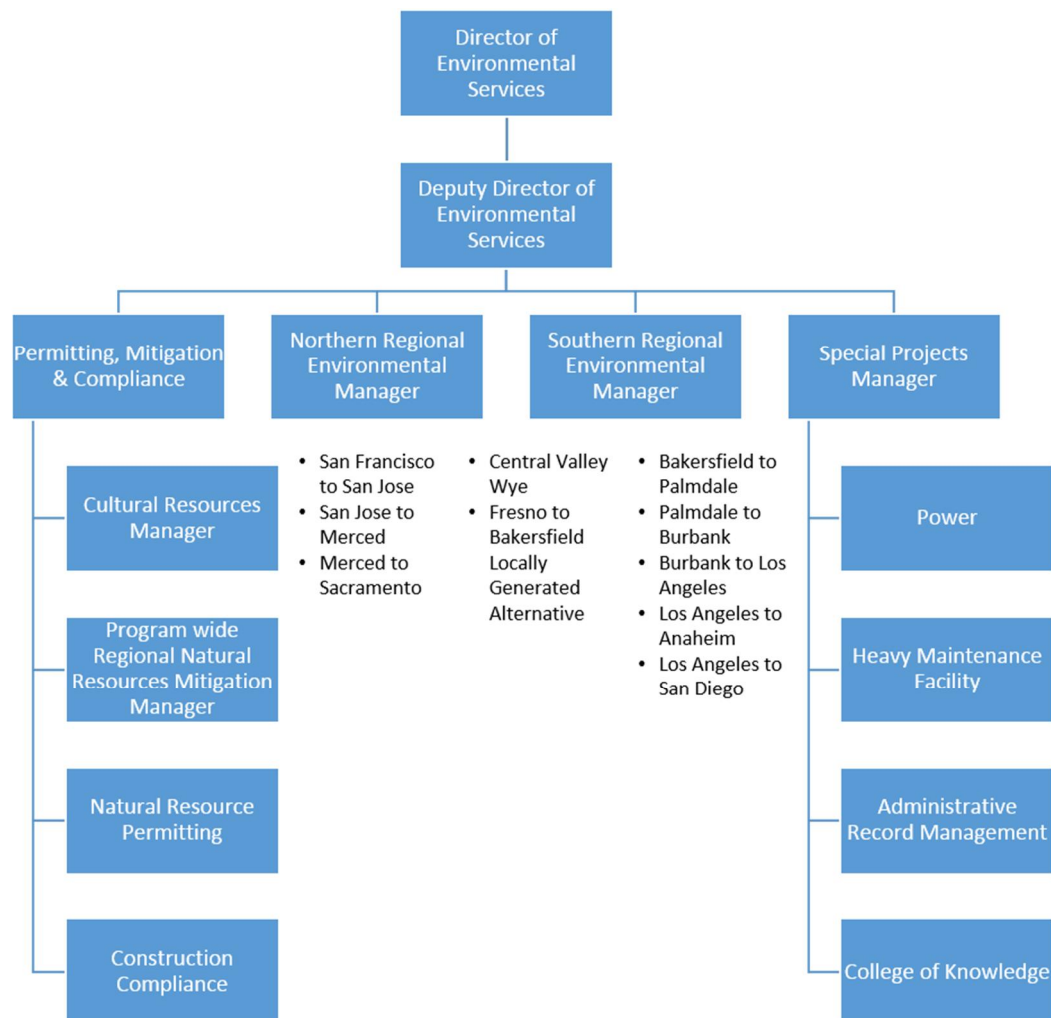


Figure 5-2 Overview of Environmental Services Branch

5.2.4 Project Development, Environmental Documentation and Compliance

The Authority relies on regional consultants (RC) and environmental and engineering consultants (EEC) to conduct preliminary engineering and design to inform the environmental analyses and documentation for the HSR project sections. This work is done collaboratively with the project section teams and program staff who engage with stakeholders throughout project development to provide important context to the engineering, operations, and design work. Although final contractual authority resides with the director of Environmental Services, the geographic regions, and the Authority's project section teams provide day-to-day supervision of the RC/EEC contracts. The RCs/EECs provide services to the Authority's three geographic regions:

- The Northern California Region encompasses the San Francisco to San Jose and San Jose to Merced Phase 1 project sections as well as the Merced to Sacramento Phase 2 project section.
- The Central Valley Region encompasses the Merced to Fresno and Fresno to Bakersfield project sections.
- The Southern California Region encompasses the Bakersfield to Palmdale, Palmdale to Burbank, Burbank to Los Angeles and Los Angeles to Anaheim Phase 1 project sections as well as the Los Angeles to San Diego Phase 2 project section.

Authority staff based in the Sacramento headquarters provides project delivery assurance, conducting final document reviews. At each stage in the process, the Authority's staff conducts document reviews to improve quality and instill consistency across the entire HSR program.

5.2.4.1 RC/EEC Consultants

The Authority has contracts with five RC/EEC teams who deliver preliminary engineering and perform the environmental studies, analyses, and public outreach required to complete EIRs/EISs for the project sections. These teams comprise close to 330 personnel with specialized expertise. They have the capability to develop the preliminary engineering and environmental documents that are needed for advancing the project sections to procurement for final design and construction.

5.2.4.2 Project Section Teams

The RC/EEC teams are supervised by the Authority's project section teams comprised of project and environmental task managers. In addition to working with the RC/EEC teams, the project section teams maintain ongoing liaison and coordination with local, state and federal agencies to understand their needs and ensure that the design of the project sections as well as the future construction, operations and maintenance reflect those needs and requirements.

Project section managers work in tandem with environmental task managers to oversee the preliminary engineering that informs the environmental analyses and ensure that engineering specifications are developed in compliance with Authority and FRA policy or requirements. The environmental task managers provide facility in NEPA processes. They provide direction to the RC/EEC teams regarding Authority and FRA policies or requirements pertaining to environmental analysis. As complex issues with environmental requirements specific to resource type or function, the environmental task managers will leverage the permitting and cultural resource managers who provide critical and specialized expertise regarding protected resources and also serve as primary points of contact with regulatory and resource agencies. Currently, the project section teams also collaborate directly with FRA when input from the Federal lead agency is necessary or desirable.

The project section managers work in collaboration with the environmental task managers to review all environmental documentation and conduct initial quality control and compliance checks prior to advancing the documents for further review. Section 5.3 provides additional discussion about the Authority's document review process.

5.2.4.3 Regional Directors of Projects and Regional Environmental Managers

As noted above, the HSR project sections fall into three geographical regions. Each region has a regional director of projects who oversee the work of the project section managers and environmental task managers in their region. Northern and southern California also have regional environmental managers who coordinate directly with Authority staff at the Sacramento headquarters providing a conduit for distributing and enforcing the Authority's policy and strategy directives.

5.2.4.4 Construction Monitoring and Compliance

Once construction begins on a project section, the Authority must monitor construction activities to ensure that environmental commitments are being met and that any changes in the project section's design elements are carefully analyzed and vetted before being implemented. These monitoring activities are conducted in close coordination with FRA and other Federal agencies. The construction management team has environmental oversight staff that work with regional Authority environmental compliance staff to review and oversee the design-build contractors. They audit and monitor the design-builder's compliance with permit conditions and commitments made in the environmental documentation and ensure that all evidence and documentation of such compliance are of good quality and placed in the Authority's compliance database, the Environmental Mitigation and Monitoring Application (EMMA) (discussed further in Section 5.5.1).

5.3 Environmental Document Quality Review Process

Each EIR/EIS prepared for a project section must undergo a quality review process prior to its public release. This quality review serves to verify that the documentation is consistent throughout the EIR/EIS and satisfies all legal and regulatory requirements. The review also ensures that the EIR/EIS is written in reader-friendly language supported by visuals—figures, tables, charts, maps, sidebars, and call-out boxes—that highlight the narrative content. The process is intended to produce a visually attractive format that uses color, fonts, and white space to enhance readability and facilitate comprehension of the information by members of the public or stakeholders who may not be well-versed in the technical disciplines discussed in the document.

Under the Authority's existing process, the responsibility for preparing an EIR/EIS, or other environmental document resides with the RC/EEC. The Authority's staff provides guidance to the RC/EEC during document preparation and conducts an initial review to verify that the document meets the Authority's quality standards and adheres to the prescribed approach, format, and methodology.

Subsequent reviews are conducted by the Authority (including its legal staff), FRA (FRA program, environmental, and legal staff), and state legal (chief counsel and attorney general), and other legal counsel. These reviews occur throughout the environmental documentation process. They typically focus on such issues as alternatives analysis, the adequacy and accuracy of the environmental analyses, conclusions, and recommendations. Their reviews will also consider the compliance of the documentation with federal, state, and local laws, regulations, and guidance.

The Authority's environmental document review process is governed by procedures established in HSR Project EIR/EIS Environmental Methodology Guidelines - Version 5 (2014) (Environmental Methods) and in other Authority environmental and documentation guidance.¹² The Environmental Methods describe the methodology to be used when conducting investigations and analyzing potential environmental and community impacts, preparing the EIR/EIS content, and compiling and producing the EIR/EIS appendices for HSR projects. The Environmental Methods define the level of analysis and documentation to be undertaken for project-level environmental studies. The methodology for the project-level analyses builds on work completed for the HSR programmatic EIR/EIS. The Environmental Methods further identify and describe potential impacts at the level of detail required to issue decisions under CEQA and NEPA, and for permits and approvals. The analyses prepared using the Environmental Methods enhance the ability of the lead agency to make informed decisions about HSR alignment, station, power and maintenance locations, mitigation commitments, and regulatory and other approvals that may be necessary.

In addition to reviewing for consistency with the Environmental Methods, Authority staff review documents for consistency with the [Style and Preparation Guidelines](#) (Style Guide). The Style Guide helps ensure:

- Consistent definition of terms and grammatical usage for HSR environmental documentation.
- Clear, understandable, concise, and attractive format and presentation of information in HSR environmental documents for agency, stakeholder and public audiences.
- Consistent use of styles and procedures for preparing and publishing HSR environmental documents.

The Authority's environmental document review process was most recently refined and articulated in April 2017. The review process typically begins when the RC/EEC submits the first internal draft documents and concludes with release to the public of the draft and final documents. To facilitate more thorough and consistent reviews across the HSR program, the Authority's Environmental Services Branch implemented in August 2016, the use of quality checklists for each EIR/EIS chapter and technical subsection. In December 2016, the Environmental Services Branch implemented "consistency reviews" to improve programmatic standardization in response to feedback from FRA.

¹² The Project EIR/EIS Environmental Methodology Guidelines can be found at http://www.hsr.ca.gov/docs/programs/eir_memos/Project_EIR_EIS_Environmental_Methodology_Guidelines_Version5_1.pdf. The document is frequently updated, most recently in July, 2017.

The Environmental Services Branch refined the review process when it introduced a new SharePoint-based document tracking tool for use by the RCs/EECs. The tool's purpose is to help project managers and environmental task managers monitor and track the submittal, review, and completion of individual EIR/EIS sections and chapters as they are reviewed by the Authority, legal counsel, and FRA. The tracking tool has another benefit: it documents that the quality review followed the Authority's established processes, including the use of the Environmental Methods, the environmental quality checklists, and four distinct types of reviews that serve different purposes. The four reviews include:

- **HSR staff reviews** are project-based reviews conducted to confirm that the EIR/EIS chapters, sections, and subsections provide a correct representation of the project and are internally consistent. The project environmental task manager performs the HSR staff review, which includes review for general consistency with the Style Guide. Sometimes additional HSR staff reviews are conducted by project managers, engineers, and the HSR planning team to confirm correct representation of specific project elements.
- **College of Knowledge reviews** are conducted by technical and subject-matter experts in the science, policy, planning, or engineering field relevant to environmental reviews under NEPA (such as biology, hydrology, paleontology, noise and vibration). College of Knowledge reviewers are preapproved by senior managers. They are experienced professionals with substantial credentials who have the expertise required to serve as an expert witness, should this be needed. They must have a degree (preferably a post-graduate degree) in their specialized discipline and a minimum of 10 years of relevant experience, possess senior expertise in impact assessment practices for their disciplinary field, and be familiar with the Environmental Methods. The purpose of the College of Knowledge review is to confirm appropriate treatment has been given to the technical subject within the regulatory context and in conformance to HSR environmental methods. The reviewers appraise the EIR/EIS chapters, sections, and subsections as well as the corresponding working draft technical reports, when one has been prepared. Not all resource area have technical reports. They confirm that the data are consistent between the EIR/EIS documents, that data tables are correctly presented, and that the findings on impacts presented in the EIR/EIS are clearly described to project decision-, stakeholders, and the public.
- **Legal reviews** are performed by attorneys under the direction of the Authority's Office of Chief Counsel to confirm that the documents meet CEQA/NEPA legal requirements and other federal and state environmental regulations. The Legal Office at the Authority has overall responsibility for ensuring that appropriate legal reviews are conducted and that any additional support by outside counsel with expertise in NEPA and related federal and state environmental laws is provided.
- **Consistency reviews** evaluate whether consistent treatment has been provided in the approach and content of the chapters, sections, and subsections of each EIR/EIS prepared across the HSR program. Consistency reviews are conducted only by senior members of the Environmental Services Branch with the depth of experience needed to have a thorough understanding of the environmental methodologies and requirements.

Once the Authority has completed its internal reviews for quality and consistency, the Authority presently transmits the document to the FRA for its review.

Figure 5-3 illustrates the current overall environmental document quality review process.



Figure 5-3 Environmental Document Quality Review Process

5.4 Guidance and Policies

The Authority relies on and implements a number of guidance documents and policies. The public can gain access to key project-level environmental and engineering guidelines, studies, and reports via the Authority's website (http://www.hsr.ca.gov/Programs/Environmental_Planning/project_level.html). The guidance ranges from general guidance on conducting and documenting environmental reviews to highly technical memorandum and guidance documents on such topics as the methodology for conducting geotechnical investigations. The documents on the Authority's website includes its Environmental Methods, described in Section 5.3. It provides general guidance and a template for conducting investigations and analyzing potential environmental and community impacts, preparing the content of an EIR/EIS, and compiling and producing EIR/EIS chapters, sections and subsections.

The Authority is compiling a handbook to provide Authority staff and consultants as well as the public with a readily-accessible guide to the policies and procedures it will use to implement the NEPA Assignment Program.¹³ The handbook will be a collection of policies and procedures that includes explanatory narrative linking the numerous guidance documents to "tell the story" of project development. It is not intended to replace the underlying policies and procedures that it references. The handbook will initially address the roles and responsibilities the Authority will assume under the NEPA Assignment Program. The Authority will expand the Handbook to also discuss requirements of CEQA in future revisions.

5.5 Document/Project Management Systems

The Authority uses a SharePoint project management system as a centralized repository for all environmental documents. The system facilitates work sharing, communication and collaboration among team members and includes a document tracking system that provides document version control and enhanced search capabilities for document retrieval. Using another tool to manage and monitor its environmental commitments, the Authority developed and is deploying the EMMA software program, described below.

5.5.1 Environmental Commitment Mitigation Management

The Authority is a forward-thinking organization that places great emphasis on the ability of future generations to enjoy the benefits of its High-Speed Rail-related environmental stewardship and sustainability. Working together, the Authority and FRA created an environmental compliance system that coordinates, tracks, and reports on the permitting and environmental compliance activities of HSR projects. The Authority uses EMMA, powered by software developed specifically for the purpose of logging environmental commitments for each project and for monitoring and reporting compliance of those commitments. FRA, the Authority and resource and permitting agencies can gain access to the EMMA system anywhere to track compliance in real time, supporting the Authority's commitment to environmental stewardship, sustainability, and transparency.

Originally designed in 2013, EMMA documents compliance with mitigation measures adopted by the Authority or otherwise required as a condition of project approvals, such as permitting requirements. This database includes mitigation measures specified in EIS/EIRs and mitigation and management enforcement plans, as well as the environmental stewardship and sustainability commitments made by the Authority and its contractors in the environmental permits, treatment plans, and regulatory assessments developed for the HSR system. While the fulfillment of most commitments occurs during a project's construction phase, EMMA is able to track commitments throughout the entire project life cycle—from planning, to design, to preconstruction, construction, post-construction, and operations and maintenance.

EMMA also functions as a reference library of environmental commitments. Each commitment can be reviewed to see the text of the commitment and its reporting requirements, implementation mechanisms, and status. EMMA also houses documents associated with the commitment, such as permits, mitigation measures, and reporting programs. This reference library is available to all staff involved in the development and delivery of the HSR program.

¹³ See Section 6.3 for further discussion about the Environmental Handbook

An Environmental Compliance Issue Tracker is also accessible in EMMA. This module is used to track the resolution of activities that may be in non-compliance with the Authority commitments. In this module, users create Compliance Issue Records as opposed to the typical EMMA record which is used to track positive compliance.

5.5.2 Administrative Record

Complete, accurate, and well-organized documentation is key to helping policy-makers, stakeholders, and the public understand the potential social, economic and environmental impacts of the HSR system. Properly documenting and filing work is essential to developing an administrative record that thoroughly and accurately reflects the Authority's decision-making process and provides the basis for documenting its decisions in the event of a legal challenge. Because the Authority fully understands that the right time to accomplish the goal of having a complete administrative record is during the documentation's development—rather than waiting until the end of a particular environmental compliance process—it has established and follows project documentation guidance. This guidance provides an overview of the requirements and best practices for maintaining a complete and well-organized project file. This results in the development and management of the administrative record for each project comprising the HSR system.

The development of a section-specific administrative record is a requisite for addressing any potential legal challenge. The Authority's existing guidance for developing a comprehensive administrative record is focused on its responsibilities as the sponsor of the HSR program to maintain all program-level and project-level documentation. This includes documentation reflecting the NEPA process, while recognizing that FRA as the lead agency for NEPA has the ultimate responsibility for compiling and maintaining any NEPA administrative record that may be needed.

Under its existing process, the Authority, FRA, RDP, and the RCs/EECs engage in a collaborative effort to compile the administrative record. As described here, each of these entities contributes to providing the Authority with an accurate and complete set of documentation for the NEPA process.

- The RC or EEC has the primary responsibility for developing the project section's environmental document. The RC/EEC performs preliminary engineering, stakeholder outreach, environmental analysis, and serves as the primary author of the environmental document. This means the RC or EEC is tasked with developing and maintaining an electronic filing system that facilitates the compilation of an administrative record if one is needed.
- As the entity responsible for program management, project delivery, and project control as well as the manager of the engineering and environmental services for the HSR system, RDP is responsible for maintaining electronic files that would be part of any needed administrative record.
- The Authority's staff performs oversight functions, assists with environmental documentation, and is responsible for agency liaison/coordination and outreach to stakeholders and the public, and maintains the files for meetings of Board of Directors whose activities, in some instances, may be relevant to the NEPA process and therefore part of the administrative record.
- The Authority's administrative records coordinator facilitates audits of the administrative record, documenting any findings using a checklist.
- The Authority's administrative records coordinator conducts a post-audit meeting with the administrative record coordinator for the RCs/EECs and the environmental manager to identify any action items, create an audit report that includes audit findings, distributes the report to audit participants, and follows up with the RC/EEC administrative record coordinator to verify completion of audit action items.
- Currently, as the NEPA lead agency, FRA has the primary responsibility for compiling and maintaining documentation and support for the record of decision and for developing a NEPA administrative record if one is needed. However, the Authority generates and maintains most of the documents that would become the formal NEPA litigation administrative record if required. In such instances, the Authority uses electronic discovery software for the collection, organization, and creation of environmental records needed to support preparation of the administrative record.

5.6 Interagency Coordination

The Authority, with a full understanding of the important role that federal and state agency partners play in informing project development, is committed to meaningful engagement with agencies with potentially affected resources under their jurisdiction. Continuous dialogue with permitting and reviewing agencies is critical to the success of the HSR projects. The Authority and its project section teams work in a close and collaborative manner with federal and state regulatory agency staff to foster ongoing and open communication. Much of this collaboration occurs with FRA that, along with the Authority, is responsible for engaging with key federal partners.

The Authority and FRA convene annual agency meetings with senior officials at the affected resource agencies. These annual meetings provide an opportunity for those individuals who are not engaged in the HSR project development process to review lessons learned from the past year, understand the forecast for work in the coming year, and provide updates on the status of the overall program.

Following the first annual agency meeting, the Authority established regular monthly agency coordination meetings across all three geographic regions of the HSR program. These meetings provide the Authority with an opportunity to brief agency staff on technical matters, preview documents that will soon be released for review, seek early agency input, and maintain an ongoing dialogue and open communication. The meetings also provide the permitting agencies, which do not always have an opportunity to engage with one another, with a forum for sharing ideas and addressing any concerns regarding the HSR project sections. The Authority has used these monthly meetings to brief the agencies regarding this application for NEPA Assignment.

5.7 Interagency agreements

The Authority recognizes that interagency agreements facilitate efficient environmental reviews and promote greater collaboration among project partners. Such agreements may be among state and federal agencies and could cover process integration, programmatic approaches to compliance, and funding for staff augmentation. Existing agreements include:

- [404/408/NEPA Integration Memorandum of Understanding](#): The Authority, FRA, U.S. Army Corps of Engineers, and U.S. Environmental Protection Agency have agreed to an integration process for the statutory and regulatory requirements of NEPA (42 U.S.C. 4321 et seq.), Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 14 of the Rivers and Harbors Act (33 U.S.C. 408) as set forth in an “Integration Memorandum of Understanding.” The Integration MOU helps to ensure that project documentation and decision-making support USACE’s ability to adopt the NEPA documentation prepared by FRA and the Authority and also support permit approval and, ultimately, construction. The MOU identifies three distinct checkpoints during the project development process that allow each agency to review and agree that project information produced up to that point satisfies its specific requirements. The checkpoints are:

- Checkpoint A – Purpose and Need
- Checkpoint B – Range of Alternatives
- Checkpoint C – Preliminary Preferred Alternative/Preliminary Least Environmentally Damaging Practicable Alternative/Preliminary 408 District Recommendation/Draft Mitigation Plan

Successfully advancing through the checkpoint process established in the MOU provides each agency with the opportunity to review and consider project information as it is developed. These steps also support concurrent review and decision-making.

- [106 Programmatic Agreement](#): The Section 106 Programmatic Agreement, formally titled the “[Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the California High-Speed Train Project](#),” defines the process for how the Authority and FRA identify, evaluate, and treat cultural resources that may be affected by the HSR projects. The Authority and FRA consulted with and sought input from Native American tribes during the

development of the Programmatic Agreement. The FRA and Authority considered all comments received from the tribes and incorporated them into the final Programmatic Agreement, as appropriate. The agencies executed the Programmatic Agreement in June 2011.

- Cooperating Agency Memorandum of Understanding with the U.S. Forest Service for the Palmdale to Burbank Project Section: The Authority, FRA and United States Forest Service have an agreement that documents and facilitates the ongoing cooperation among the parties to prepare the Palmdale to Burbank EIR/EIS to comply with NEPA and CEQA. The agreement is formally titled the “Memorandum of Understanding between the United States Department of Transportation Federal Railroad Administration, and the California High Speed Rail Authority and the USDA, Forest Service, Angeles National Forest. The agencies executed this MOU in September 2017.
- Staffing Agreements: The Authority has developed agreements with multiple state and federal agencies to provide funding to support staff augmentation. Providing funding to dedicated resources enables those agencies to participate actively in the HSR environmental studies. The agreements allow the affected agencies to maintain their original capacity and avoid having the HSR program place an undue burden on agency resources. Funding agreements provide for travel to project meetings and other related reasonable expenses related to the environmental analysis on this unprecedented project. Currently, the Authority has interagency agreements in place to support dedicated staffing with the following agencies:
 - CA Department of Fish and Wildlife
 - CA Department of Parks and Recreation
 - CA State Water Resources Board
 - National Marine Fisheries
 - Surface Transportation Board
 - US Army Corps of Engineers
 - US Bureau of Reclamation
 - US Environmental Protection Agency
 - US Fish and Wildlife Service
 - US Forest Service

5.8 Training Programs

Authority staff have opportunities to develop, grow and expand their knowledge continually within their respective disciplines. The Environmental Services Branch promotes such learning through a variety of methods. One method is a weekly “learn at lunch” which brings in speakers from across the program representing various technical disciplines to help staff understand how the different program areas intersect and provide technical knowledge. Additionally, staff have opportunities to attend conferences and seminars which allow them to stay current in their area of expertise. Program-specific training has been developed and provided on “Quality Environmental Documentation” and a training module on “indirect and cumulative effects analysis” is currently in development.

5.9 Public Outreach

The Authority is committed to transparent, proactive, and ongoing stakeholder and public involvement during all HSR system development phases. Its stakeholder and public involvement and outreach processes are designed to promote early and continuing involvement and to provide open access to the decision-making process. The Authority’s process is intended to provide timely public notice; create opportunities for ongoing information sharing; and make technical and other information available. To improve transparency and encourage collaborative input on alternatives, evaluation criteria, and mitigation needs, the Authority defines and explains the decision-making process. The Authority also conducts a thorough search to foster participation from stakeholders and communities, businesses, and

property owners along the HSR alignment as well as any other members of the public who are interested in or affected by the HSR program. By holding open public meetings, the Authority encourages exchanges of information and ideas between stakeholders, the public, and program decision-makers. As the lead federal agency, at a minimum, FRA participates in all public hearings and works closely with the Authority's outreach teams to ensure appropriate and meaningful public engagement.

5.10 Differences between State and Federal Environmental Review Processes

The Assignment regulations at 23 CFR 773.109(a)(3)(i) require that the application discuss "the differences, if any, between the State environmental review process and the federal environmental review process." The Authority is subject to environmental review requirements under both NEPA and CEQA. Compliance with CEQA is required on all projects for which a public agency has a discretionary action unless the project is exempted by statute in an act of the Legislature. CEQA requirements are set forth in Public Resources Code section 21000 et seq. with implementing CEQA Guidelines at 14 CCR § 15000 et seq.

To promote efficient and effective environmental reviews of joint NEPA/CEQA documents, in February 2014, the Council on Environmental Quality and the California Governor's Office of Planning and Research jointly released a handbook, [NEPA and CEQA: Integrating State and Federal Environmental Reviews](#), which provides practitioners with an overview of and practical suggestions for the NEPA and CEQA processes and addresses the key similarities and differences between NEPA and CEQA. Under the Authority's existing environmental procedures, the Authority and FRA prepare joint EIRs/EISs to satisfy both NEPA and CEQA in a single document.

Although NEPA and CEQA are similar in intent and in the review process, NEPA requires consideration of the socioeconomic environment as well as the physical, while CEQA focuses on the physical environment.¹⁴ Also, the two laws differ in standards for determining significance, which influences directly what class of action is selected. Where NEPA defers to agency determinations based on an assessment of the context, intensity, and duration of the action, CEQA requires an EIR if substantial evidence supports a fair argument that the action may have a significant impact. There are also several important differences in areas that require analysis and discussion in the environmental document, including for example, alternatives, noise, and cultural resources.

A key difference between NEPA and CEQA is related to significance and mitigation. NEPA requires that the mitigation of impacts be considered whether or not the impacts are significant, but does not impose a substantive duty to mitigate. Agencies are required to identify relevant and reasonable mitigation measures that could improve the action. However, CEQA requires agencies to make a determination of significance for each impact; to mitigate for each significant impact to the extent feasible; and identify specific feasible mitigation measures in the CEQA documentation. Significance determinations under CEQA must be made without consideration of mitigation measures; and minimization, avoidance, and mitigation measures must be categorized and labeled correctly and consistently throughout environmental documents.

Environmental documents prepared by the Authority and FRA include the significance findings required by CEQA under a separate heading in each section of the environmental consequences chapter and identifies mitigation measures the agency proposes to adopt to satisfy CEQA requirements. The Authority's approach to developing joint NEPA/CEQA documents has been advanced in cooperation with FRA and is set forth in more detail in the Authority's Environmental Methods.

5.11 Project Delivery Methods

The Assignment regulations at 23 CFR 773.109(3)(v) require that the application discuss otherwise permissible project delivery methods and how the state will ensure it maintains the objectivity and integrity requirements of NEPA under such methods. The Authority is using the alternative delivery method of design-build in its construction now underway and may continue that method throughout the HSR system

¹⁴ California Public Resources Code § 21080 (e)(2) "...evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment" is not considered substantial evidence supporting the preparation of an Environmental Impact Report.

while always maintaining compliance with NEPA and other federal environmental laws. The Authority monitors the design-build construction process to ensure environmental commitments are met (See Section 5.2.4.4). Under NEPA Assignment, the Authority will continue this practice while maintaining high quality of environmental documentation and decision-making.

6 ORGANIZATIONAL AND PROCEDURAL CHANGES TO BE MADE BY THE AUTHORITY FOR ASSUMPTION OF RESPONSIBILITIES (773.109(a)(3)(ii), (a)(4)(i-iii))

The Authority has been producing project-level environmental documents for its Phase 1 projects under NEPA and other relevant federal environmental laws since 2010 following a grant agreement with FRA. That agreement requires the Authority to produce environmental documents for its HSR project sections in compliance with NEPA and these other laws. FRA, as the federal lead agency for compliance, provides independent oversight during preparation of the documents and confirms the documents are compliant before releasing them for cooperating agency or public review. NEPA Assignment shifts the statutory legal responsibility for compliance to the Authority, which requires modification of the Authority's existing procedures to incorporate the independent oversight role currently performed by FRA.

Accordingly, the Authority is making both organizational and procedural changes to its environmental program to assume FRA's responsibilities under NEPA and other federal environmental laws. The Environmental Services Branch will be expanded to include dedicated positions for NEPA Assignment while maintaining its current critical project development roles and responsibilities. As the Authority "steps into FRA's shoes" for the purposes of NEPA Assignment, it will create a new team within the Environmental Services Branch to approximate the role of FRA in environmental reviews. Updates to the Authority's QA/QC procedures on environmental documents have already been initiated, providing federal and state agencies of jurisdiction as well as stakeholders and the public with high-quality, accessible environmental documents. Further, the Authority is developing a comprehensive training program to provide all employees involved in project development and delivery an understanding of the fundamentals of the NEPA Assignment program. In addition, the Authority will give more additional to environmental team members and NEPA document reviewers.

6.1 Organizational Change

The Authority takes very seriously the role of assuming FRA's legal obligations under NEPA and other federal environmental laws. To provide the appropriate level of oversight and review, as it assumes FRA's role as a lead, cooperating, or participating agency under NEPA, the Authority plans to make the necessary organizational and procedural changes to include the final review and approval of NEPA and related environmental documentation. These changes are separate from the Authority's ongoing project development and delivery responsibilities and are being implemented to ensure that the new responsibilities under NEPA Assignment are carried out fully and independently from other activities. An independent NEPA Assignment Team created within the Authority will provide ongoing project development oversight and advice with regard to the Authority's implementation of the federal responsibility assigned by FRA. This team will be responsible for providing ongoing project-level direction related to NEPA requirements as well as final document review for NEPA compliance. By implementing these improvements, the Authority will maintain the rigorous environmental standards required by NEPA and other federal environmental laws while also providing for a more efficient process to complete quality environmental documents.

The Environmental Services Branch, with support from the Authority's legal counsel, will continue to oversee and inform project development on issues related to environmental compliance, including federal and state law, regulation, and policy. The addition of the NEPA Assignment Team will bolster the already robust capacity and capability of the Environmental Services Branch, ensure that the requirements of NEPA Assignment will be correctly administered, and verify that project decisions are consistent with the legal requirements of all federal agencies involved in the HSR program. The Authority anticipates that other federal agencies will rely on the Authority's NEPA documents and decisions to support the federal agencies' approval and permitting actions on the HSR program.

6.1.1 NEPA Assignment Team – Independent Decision-making in Project Development

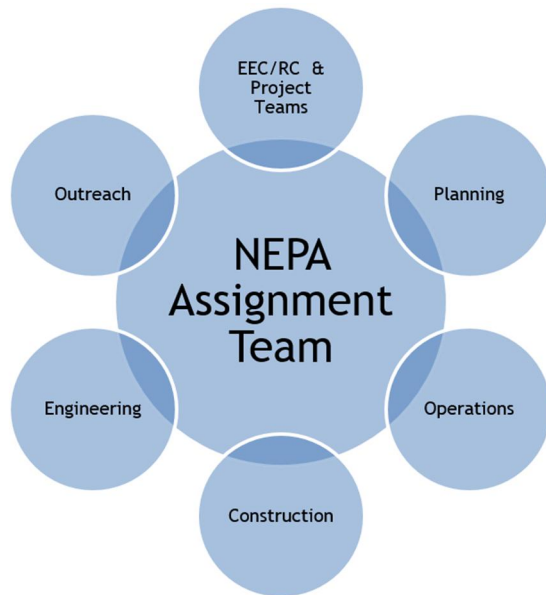


Figure 6-1 – Assignment Team intersections with project development, outreach, delivery, operations and maintenance.

In assuming NEPA Assignment, the Authority is committed to creating a NEPA Assignment Team that supports independent environmental decision-making. Approval for all environmental documentation related to NEPA and other federal environmental laws covered by NEPA Assignment will be based on the adequacy of the document (s) and its compliance with federal policies, procedures, and laws. Consistent with FRA's approach to NEPA oversight, the NEPA Assignment Team will engage and collaborate with the project section teams, including designers, engineers, scientists, environmental planners, and communications specialists throughout the project development process to comply with federal laws, regulations, and processes.

Essential to implementing NEPA Assignment successfully is the

ability of the Assignment Team to have the opportunity – throughout the environmental review process – to inform elements of project development to maintain, just as FRA has done, compliance with NEPA requirements and other federal environmental laws. Ongoing, regular involvement of NEPA Assignment Team members in all elements of project development and delivery will promote quality environmental decision-making. This regular involvement will also promote more efficient reviews of environmental documents once drafted, as the team members will have project-level knowledge and can quickly identify areas requiring additional attention during the document review and approval process. The NEPA Assignment Team will also regularly engage with lead and cooperating agencies, serving as liaisons to the federal and state agencies of jurisdiction to maintain open lines of communication and identify issues or concerns that should be considered during project development. Should issues arise where the Assignment Team and the project development team disagree on an approach, they may invoke a dispute elevation process to facilitate an efficient, timely and effective resolution. Importantly, the elevation and resolution approach will promote informed decision-making by Authority leadership. Section 6.1.2 of this application describes this process further.

Considering the successful administration of NEPA Assignment by Caltrans, the Assignment Team is modeled on the Caltrans Assignment organizational structure. Caltrans uses environmental coordinators located at headquarters to provide technical support and oversight to Caltrans District Offices. Similarly, the Authority's NEPA Assignment Team will be located at its Sacramento headquarters and situated within the Environmental Services Branch, reporting straight to the director.¹⁵

¹⁵ See Figure 5-1 for the Authority's organizational structure.

6.1.1.1 NEPA Assignment Team Structure

The NEPA Assignment Team will be led by a deputy director of NEPA Assignment. This individual will be a state employee who will supervise NEPA Assignment coordinators comprised of state and consultant personnel. Each team member will complete training on NEPA Assignment and its requirements, the Authority's policies and procedures, and other elements of environmental program administration required to execute the federal responsibilities assigned to the Authority (see Section 6.4 for discussion of the environmental training program). The training will leverage the well-established training program administered by Caltrans as part of its NEPA Assignment responsibilities. The training content will be modified, as required, to reflect the unique nature of the Authority's high-speed rail program.

Environmental services staff currently includes several individuals who are experienced with NEPA Assignment having completed the Caltrans Assignment training program. To supplement that existing capacity, when initially established, the NEPA Assignment Team will include Caltrans environmental specialist(s) who is/are experienced in administering federal responsibilities under NEPA. The Authority will also engage Caltrans subject-matter experts, as appropriate, to support the Assignment Team on technical details. Drawing from the experienced NEPA staff resources from Caltrans will bolster the Authority's team promoting continued rigorous environmental analysis and importing "lessons learned".

The Assignment Team will have an open line of communication to the Authority's Executive Committee and CalSTA leadership. Using this link, the deputy director for NEPA Assignment may provide updates on progress under NEPA Assignment, raise unresolved issues for resolution, and receive direction regarding any corrective actions, again, consistent with FRA's role. This communication line option will also help reinforce the independent nature of the NEPA Assignment Team as it engages with the project section teams.

Regional environmental managers will work directly with the Assignment coordinators, providing a program-wide perspective. The regional environmental managers serve as an extension of the headquarters staff to help ensure that federal and state requirements are adequately considered during project development. Although NEPA Assignment coordinators are tasked with informing and evaluating project decision-making from a federal perspective, their partnering with the regional environmental managers to maintain consistency in approach across the overall HSR program will support informed project decisions and facilitate quality environmental document development.

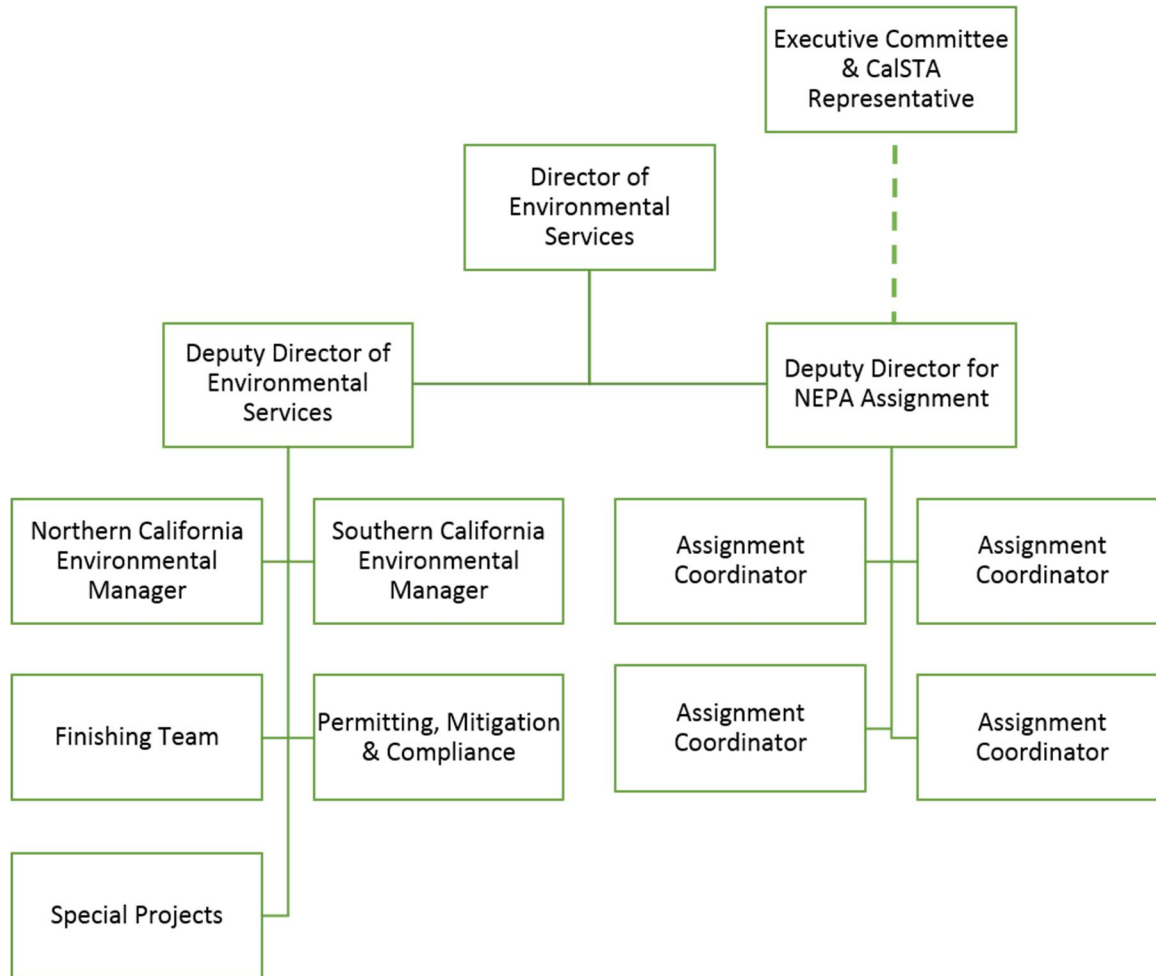


Figure 6-2 Assignment Team organizational structure

This structure will further enable the Authority, through the Assignment Team, to serve as the lead, cooperating, or participating agency under NEPA for other railroad projects covered by the Assignment MOU. The independent nature of the Assignment Team will allow it to provide a level of involvement and oversight similar to FRA's for projects that are part of the core high-speed rail system, as well as other projects covered by the Assignment MOU, whether the Authority is serving in a lead, cooperating, or participating agency role. Regardless of the scope or scale of these future projects, the Assignment Team is positioned to fulfill the Authority's NEPA responsibilities successfully, just as it will for the core high-speed rail system.

6.1.1.2 Roles and Responsibilities of the NEPA Assignment Team

The NEPA Assignment Team will be focused on the federal responsibilities assumed under NEPA Assignment, but will not work in isolation from others in the Environmental Services Branch. Effectively administering an environmental program requires a multidisciplinary approach. Thus, the NEPA Assignment Team will serve as functional experts in federal requirements and policy and also leverage the expertise of the Environmental Services Branch as technical issues arise.

6.1.1.3 Deputy Director for NEPA Assignment

The deputy director for NEPA Assignment will report straight to the director of Environmental Services and will be responsible for making final recommendations regarding the adequacy and compliance of environmental documentation prepared under NEPA or any other federal environmental law for which the Authority has assumed responsibility. The deputy director for NEPA Assignment will be a state employee and will serve as a critical point of contact for federal cooperating agencies during project development. The deputy director will oversee the work of the NEPA Assignment coordinators and provide technical and policy direction as appropriate. The deputy director will also be responsible for providing the federal perspective on issues that arise during project development, which Section 6.1.2 describes.

6.1.1.4 NEPA Assignment Coordinators

The Authority plans to add four new positions to staff the NEPA Assignment Team. Three of the four NEPA Assignment coordinators will be assigned to a geographic region (Northern California, Central Valley, and Southern California) and will be responsible for the ongoing project review and coordination with the project section teams in those regions. The fourth coordinator will be assigned to monitor and coordinate with project construction teams, providing oversight and direction on compliance with environmental commitments, permit conditions, and other environmental-related factors.

The NEPA Assignment coordinators serve as the primary agents to administer the requirements of NEPA Assignment and are empowered to raise issues of concern relative to compliance with NEPA and other federal environmental laws. If circumstances arise that create a conflict between the recommendations of the coordinator and the project section team, an accelerated dispute elevation and resolution process may be triggered. Section 6.1.2 describes this process.

6.1.1.5 NEPA and Permitting Counsel

Legal counsel will play a critical role in administering the responsibilities under Assignment. The Assignment Team will coordinate with the Authority's counsel (including outside counsel) to identify and understand risk and determine potential solutions that are consistent with the requirements of NEPA and other federal environmental laws. Additionally, legal sufficiency and legal reviews of technically challenging topics, such as 4(f) and environmental justice, will be performed by legal counsel as part of the NEPA Assignment Program.

6.1.2 Dispute Elevation and Resolution under NEPA Assignment

To support NEPA Assignment, and reflective of the independent role FRA currently plays, the Authority proposes some structural and procedural changes. One such change is the creation of a dispute elevation and resolution process unique to NEPA Assignment. Although it is expected that most disagreements will emerge and be resolved at the project or program level, a defined process to elevate and resolve disputes to arrive at decisions in a timely way will help to ensure that the independent voice of the Assignment Team is heard and that project decisions reflect input from the Assignment Team. The dispute elevation and resolution process for NEPA Assignment enables efficient, timely and effective elevation and resolution of issues.

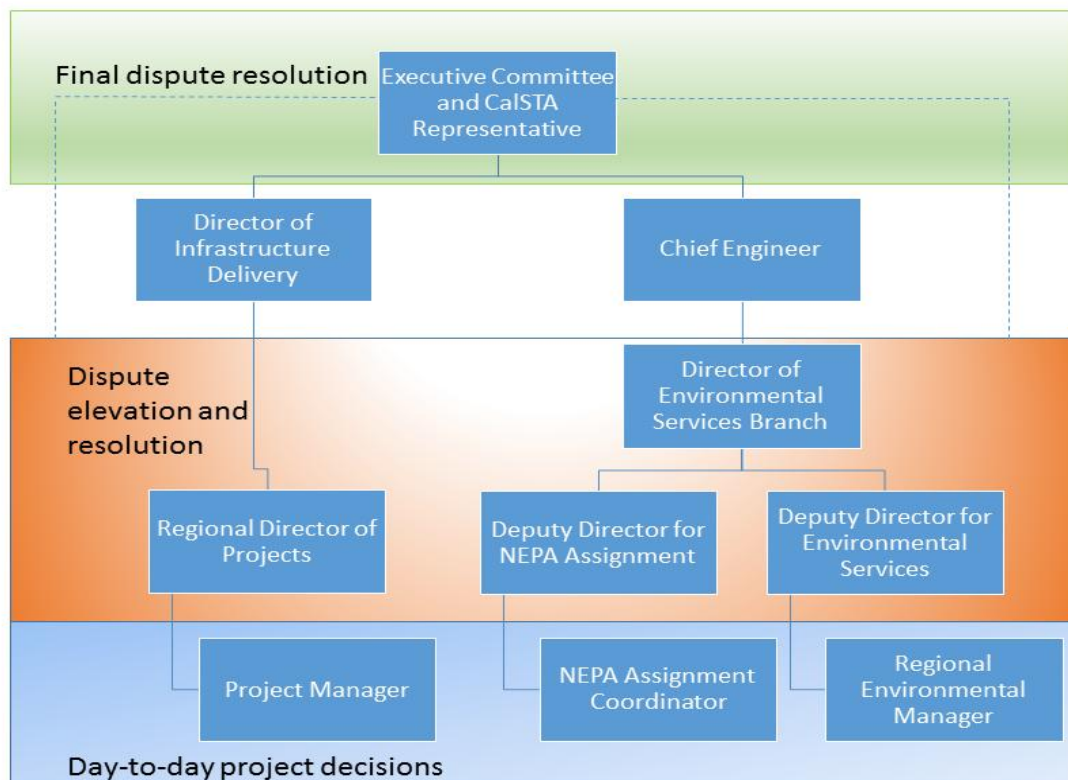


Figure 6-3 Dispute Elevation and Resolution under Assignment. This figure depicts environmental coordination with project teams and dispute elevation and resolution process under NEPA Assignment typical across all geographic regions of the program.

Disputes that cannot be resolved between the project manager and the NEPA Assignment coordinator will be quickly elevated and if unresolved after the first step in escalation, will go directly to the executive committee, which will be joined by a representative of CalSTA for final resolution of any matters relating to Assignment responsibilities. If an issue is elevated to the executive committee, all project development work directly related to the issue in question must stop until final resolution or upon direction from the executive committee. Providing an opportunity for the Assignment Team to engage directly with Authority leadership will reinforce the significant role the Assignment Team plays in project development.

6.2 Expanded QA/QC – Modifying Environmental Document Completion

Independently of NEPA Assignment, the Authority is already strengthening the role of its Sacramento-based headquarters staff during environmental document preparation. The Authority is proposing a discrete hand-off from the RC/EEC to the Authority once the RC/EEC has completed the initial Administrative Draft document (for NEPA/CEQA). The Authority's headquarters staff would then assume the responsibility of finalizing the document and preparing it for final compliance review.

A new “finishing team” will be created within Environmental Services Branch to administer the final QA/QC and document preparation before the document is sent to the Assignment Team for final review and approval. This process will provide greater program consistency by establishing a single team within the Authority responsible for reviewing documents for quality and consistency and finalizing them for review and approval by the Assignment Team before releasing the documents for cooperating agency or public review.

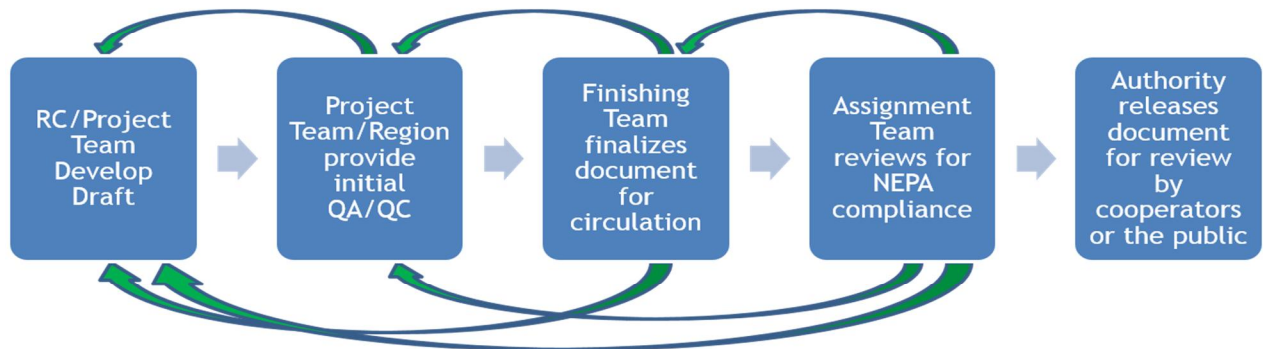


Figure 6-4 Expanded QA/QC process under Assignment

In tandem, the finishing team and the Assignment Team will comprise a new internal system focused on promoting more efficient production of high-quality environmental documentation and quality environmental decision-making. Any public document prepared by the project section teams will flow through this new QA/QC process, including, but not limited, to:

- Alternative Analysis and Supplemental Alternatives Analysis
- Draft environmental documents, including the technical reports and studies used to develop the documents
- Final environmental documents
- Environmental Assessments
- Decision documents (ROD, Finding of No Significant Impact)
- Supplemental draft and final documents
- Reexaminations and re-evaluations
- Formal agency correspondence
- Checkpoint documents prepared pursuant to the NEPA/404/408 merger agreement, including the underlying documents
- Identification of Historic Properties, Findings of Effect, and Memoranda of Agreement under Section 106 of the National Historic Preservation Act
- Section 4(f) determinations, including individual evaluations and *de minimis* findings
- Other documents as appropriate

The finishing team will be focused on ensuring overall document quality and consistency while the Assignment Team will be focused on ensuring compliance with NEPA and applicable federal laws. This combined approach is comparable to the approach employed by Caltrans under Assignment from the FHWA.

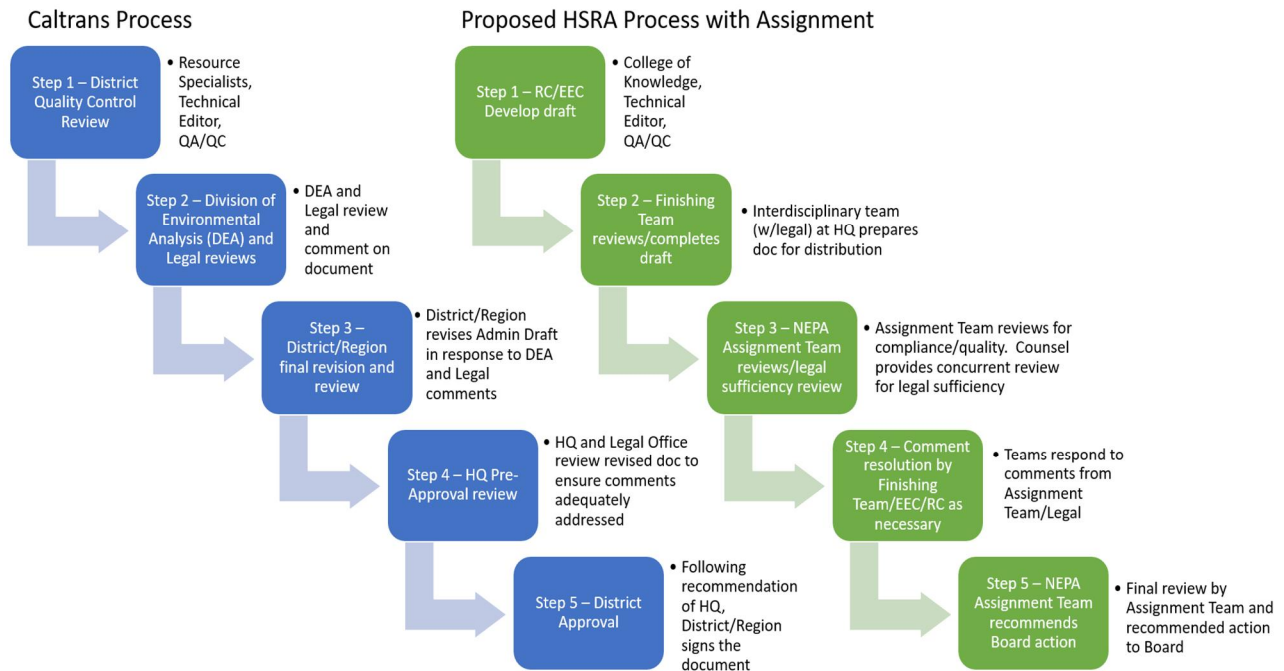


Figure 6-5 Comparing the existing Caltrans document approval process and the approach proposed by the Authority under Assignment.

6.2.1 Audit Requirements and Performance Measures

The Assignment Team will be responsible for monitoring and reporting on how project teams adequately follow the policies and procedures established to direct the development and review of environmental documentation. Through ongoing internal performance reviews and by pursuing continued improvement in both the process and products generated, the Assignment Team will identify and recommend corrective actions when necessary to align project section teams with established procedures.

During the annual audits administered by FRA, the Assignment Team will serve as the primary point of contact and will be responsible for compiling and delivering audit materials to FRA and its support team. The Assignment Team will coordinate directly with the deputy director for environmental services who is responsible for overall quality assurance within the Environmental Services Branch. The Assignment Team will also work with the deputy director for Environmental Services to track progress against performance measures established as part of the Assignment MOU. Those performance measures may include:

- Compliance with NEPA and other federal environmental statutes and regulations.
- Quality control and assurance for NEPA decisions.
- Relationships with agencies and the general public.

6.3 Compiling Environmental Policies and Procedures – The Environmental Handbook

As referenced in Section 5.4, the Authority has extensive policy and procedural guidance that directs the development and review of environmental documentation. Through ongoing

coordination with FRA, the Authority has undertaken an aggressive effort to prepare an Environmental Handbook that will provide a “soup to nuts” overview of the procedures required for compliance with NEPA and other federal laws for which FRA responsibilities are assigned. Although a document of this type has not previously been assembled by the Authority, much of the underlying information is available from existing Authority sources. The Environmental Handbook will synthesize all the information to provide environmental practitioners and the public with a clear, concise and easily understood roadmap to administering the Authority’s environmental program. The Environmental Handbook will cover topics including:

- Legal framework for the environmental review program including NEPA and related federal environmental laws;
- USDOT and FRA environmental procedures;
- CEQA and its integration with NEPA;
- Other policies and guidance directing work on the HSR program;
- NEPA Assignment and the Authority’s role as a lead, cooperating, and participating agency;
- Agency coordination in the NEPA process;
- How to initiate NEPA including class of action determinations for categorical exclusions, environmental assessments, and environmental impact statements;
- Environmental document quality review process and standards;
- Environmental permitting; and
- Public involvement policies and guidance.

6.4 Environmental Training Program

Training is an important aspect of any environmental program to promote continuing education of staff and provide opportunities for the staff to learn about the latest advances in environmental policy, analysis, best practices, or other matters. Section 5.8 discusses the Authority’s current training programs. Under Assignment, the Authority will expand its current program to provide training specific to NEPA Assignment to all relevant staff within 1 year of assuming responsibilities. The Assignment Team will receive targeted training within approximately 4 weeks of onboarding at the Authority and the Environmental Services staff will receive training as soon as practicable. The Authority will also provide annual refreshers to capture new information and lessons learned and will provide ad hoc trainings on specific topics of particular interest as warranted.

6.4.1 Program-wide Environmental Training

A high-level environmental compliance course will be developed and provided to all relevant members of the HSR program team, from RCs/EECs to senior executives. Successful completion of the course will be tracked and included in internal assessments and audits. Content in this training will cover the basics of environmental law, regulation, and policy, and how they inform project decision-making. The training will be provided in-person initially and then made available as a web-based learning program for relevant new hires as part of their orientation program and for periodic program updates.

6.4.2 Environmental Services Training

The next tier of environmental training will delve deeper into the critical federal laws, regulations, and policies that direct project development. This training will be required for all members of the Environmental Services Branch as well as environmental task managers, project managers and regional directors of projects. Successful completion will be a performance measure used in

internal assessments and audits. As with the program-wide training, the environmental services training will be delivered in-person initially with a web-based learning program available after the initial delivery. A refresher course will be developed and provided every two years after team members have completed the initial training. This round of training will provide any updates related to law or policy informing project development or delivery as well as lessons learned.

6.4.3 NEPA Assignment Training

The most detailed training under Assignment will be provided to the NEPA Assignment coordinators and the deputy director for NEPA Assignment. The training will focus on the key elements of federal law, regulation, and policy that must be considered during project development and documentation. The training will also detail the Authority's environmental program and familiarize the Assignment Team with the Environmental Handbook and all the materials referenced in that document. Document quality and the minimum criteria for recommending approval of environmental documentation under Assignment will also be covered to provide Assignment coordinators and the deputy director with a complete understanding of the threshold questions that must be answered. The training will explain the information that must be provided before advancing a document with a recommendation for approval to the director of Environmental Services. This training will be mandatory for all members of the Assignment Team and their training will be refreshed every two years to maintain currency in the Authority's policies and procedures and federal law, policies/guidance and important legal cases affecting NEPA and related laws.

6.5 Conclusion

These proposed changes to the Authority's existing structure and processes are intended to help ensure that the Authority can implement NEPA Assignment. As it "steps into FRA's shoes" under Assignment, the Authority is committed to providing the same level of program and project oversight that FRA has historically provided. Such oversight includes engaging in the day-to-day project development and providing a federal perspective that reflects not only the requirements of NEPA, but also the concerns of other Federal agencies involved in the NEPA process, including cooperating agencies. The Assignment Team will approximate the role of FRA and administer its responsibilities in a manner that ensures that both the agencies and the public will see no discernible change in the environmental process.

7 LEGAL SUFFICIENCY DETERMINATIONS UNDER ASSIGNMENT (773.109 (a)(3)(iii))

Integrated with project development and document preparation is the advice and support of the Authority's legal team. With Assignment comes additional legal responsibility to review NEPA documents to determine their legal sufficiency as required by FRA's environmental procedures. Currently the Authority uses in-house and outside counsel to provide advice during the environmental review process. Under Assignment, that practice will continue; however, NEPA attorneys will perform a specific review of the environmental document (similar to the review FRA attorneys presently conduct) to evaluate legal sufficiency in addition to providing ongoing project advice. The legal sufficiency review will occur in coordination with the Assignment Team's review and any deficiencies will be addressed either by the finishing team or the RC/EEC/project section team depending on the nature and complexity of the issue. The Authority's in-house counsel will be responsible for making any final determination that an environmental document is legally sufficient.

8 FINANCIAL RESOURCES TO ADMINISTER THE ASSIGNMENT PROGRAM (773.109(a)(5))

The Authority has several funding sources to support environmental analysis under NEPA and other assigned federal environmental laws. The first source of funds is state bond funding under 2008's Proposition 1A. Codified at Streets and Highways Code section 2704 et seq. Proposition 1A provides up to \$675 million for environmental studies, planning, and preliminary engineering.

The second source of funding is the continuous appropriation by the Legislature of the proceeds from ongoing auctions of greenhouse-gas emissions allowances under California's cap-and-trade program. Specifically, under Health and Safety Code section 39719(b)(2), 25 percent of the annual proceeds of the state's greenhouse-gas emission reduction fund (the fund into which allowance auction proceeds are deposited) are continuously appropriated to the Authority for HSR project development, including the environmental review and design costs for Phase 1. The Legislature has authorized the continued existence of the cap-and-trade program through 2030.

FRA provided financial assistance for preliminary engineering and environmental reviews of Phase 1 of the HSR System through a cooperating agreement funded by the American Recovery and Reinvestment Act (ARRA). While the Authority was reimbursed for the total amount of its ARRA funding in September 2017, it is still required, through its enforceable agreement with FRA, to finish the preliminary engineering and environmental review for Phase I. This will be accomplished through the non-federal sources described above.

While Assignment will add some budget expense for additional NEPA Assignment staff, CalSTA and the Authority commit to making adequate financial resources available to meet the staffing and other resources required to assume FRA's environmental review responsibilities.

9 PUBLIC COMMENTS RECEIVED ON THE APPLICATION FOR NEPA ASSIGNMENT (773.109(a)(8))

Following the state public comment period, this section will summarize the comments received on the State's application for NEPA Assignment. A full comment response log will be included as an appendix to the final application submitted to FRA. It will be available as part of the federal public comment period FRA administers. Should any comments prompt changes to the Authority's approach to NEPA Assignment or the elements of the NEPA Assignment MOU, those changes will be described in this section.

10 POINT OF CONTACT FOR THIS APPLICATION (773.109(a)(9))

CalSTA Undersecretary Brian Annis is the point of contact for the State's request for NEPA Assignment. His contact information follows:

California State Transportation Agency
915 Capitol Mall, Suite 350B
Sacramento, CA 95814

916-323-5400
916-323-5440 (fax)

For the purposes of public comment on this application, commenters can submit their comments via these methods:

- Via email at NEPA@hsr.ca.gov
- Mail your comment to:
 - Attn: NEPA Assignment Application
California High-Speed Rail Authority
770 Street, Suite 620 MS-1
Sacramento, CA 95814
- Submit public comment at the Board of Directors meeting on Wednesday, November 15, 2017

**APPENDIX A – CERTIFICATION FOR CONSTANT TO EXCLUSIVE FEDERAL
COURT JURISDICTION AND WAIVER OF IMMUNITY (23 CFR 109(a)(6))**

We, as the Chief Counsel of the California State Transportation Agency and the Acting Chief Counsel for the California High-Speed Rail Authority (CHSRA), certify that CalSTA and CHSRA, respectively, have the authority under state law, including but not limited to Government Code section 13979.2, to assume the responsibilities of the Secretary of the United States Department of Transportation being requested in this application.

We also certify that the State of California, through Government Code section 13979.2, consents to federal court jurisdiction with regard to the compliance, discharge, or enforcement of the responsibilities assumed by CalSTA and CHSRA pursuant to Title 23 of the Code of Federal Regulations, section 773.109(a)(6) and explicitly waives California's Eleventh Amendment immunity from citizens' suits brought in federal court with regard to any such CalSTA- or CHSRA-assumed responsibilities pursuant to Government Code section 13979.2, which remains in effect until January 1, 2021, unless a later enacted statute deletes or extends this date.

This certification is submitted as part of an application package pursuant to Title 23 of the Code of Federal Regulations, section 773.109.

Signed: _____ Date: _____
Alicia Fowler
Chief Counsel
California State Transportation Agency

Signed: _____ Date: _____
James W. Andrew
Acting Chief Counsel
California High-Speed Rail Authority

APPENDIX B – CERTIFICATION THAT THE STATE OF CALIFORNIA'S PUBLIC RECORDS ACT IS COMPARABLE TO THE FEDERAL FREEDOM OF INFORMATION ACT (23 CFR 773.106(a)(7))

As Chief Counsel for the California State Transportation Agency and Acting Chief Counsel for the California High-Speed Rail Authority, we, Alicia Fowler and James Andrew, respectively, certify that the State of California enacted the California Public Records Act (Government Code Section 6250, et seq.), which is California's functional equivalent to the Federal Freedom of Information Act (FOIA). This act provides for review of any decision regarding the public availability of a document by a court of competent jurisdiction.

The California Public Records Act (CPRA) applies to all public agencies in the State of California and was modeled upon the FOIA. California courts look to the legislative history and judicial construction of the FOIA as aids in interpreting the CPRA.

While the CPRA is quite extensive, this excerpt from Government Code Section 6253 provides a convenient summary of its objectives:

- (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.
- (b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

The CPRA extends to public records stored in a computer (Government Code Section 6254.9(d)) and to public records requests made by a district attorney (Government Code Section 6263). The CPRA specifies those public records exempt from disclosure. These include, but are not limited to, records related to personnel matters, litigation, the location of archaeological sites, and trade secrets.

When a public agency has allegedly failed to comply with the CPRA, a member of the public may seek legal enforcement or relief pursuant to Government Code Section 6258 which provides:

Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

A district attorney may similarly petition for judicial relief (Government Code Section 6264). As part of its proceedings, the court is empowered to review the record in question and to order the record to be made public, if justified (Government Code Section 6259).

Signed: _____

Date: _____

Alicia Fowler
Chief Counsel
California State Transportation Agency

Signed: _____

Date: _____

James Andrew
Acting Chief Counsel
California High-Speed Rail Authority

APPENDIX C – CORRESPONDENCE BETWEEN THE STATE AND FEDERAL GOVERNMENT REGARDING NEPA ASSIGNMENT



OFFICE OF THE GOVERNOR

February 24, 2017

The President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

In light of your commitment to rebuilding America's infrastructure, and in response to Executive Order 13766, I am hereby submitting ten high-priority projects in need of expedited environmental review.

These projects will enhance public safety and strengthen our economy.

I have included on this list the repair of the Oroville Dam, for which we have suspended requirements for state environmental review due to the emergency. I would ask that the White House take similar steps by exempting this project from any National Environmental Policy Act review.

I welcome the opportunity to work with you in improving America's infrastructure.

Sincerely,

A handwritten signature in black ink that reads "Jerry Brown".

Edmund G. Brown Jr.



OFFICE OF THE GOVERNOR

February 24, 2017

Mr. Ted Boling
Acting Chair, Council on Environmental Quality
722 Jackson Place NW
Washington, D.C. 20503

Dear Chairman Boling:

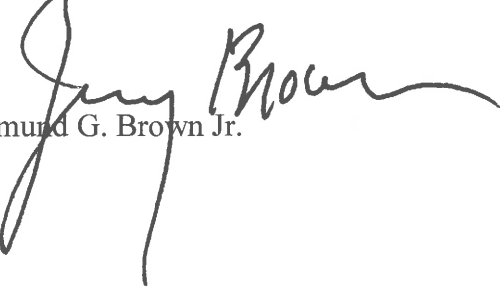
Pursuant to Presidential Executive Order 13766, I am submitting an initial list of high-priority infrastructure projects in need of expedited environmental review.

- **Interstate 710 South Corridor Project in Los Angeles County** – widens and replaces the first phase of critical interchanges along the 710 corridor. The 710 is the primary highway connection to the Ports of Los Angeles and Long Beach and is therefore a critical freight corridor for the nation.
- **Highway 101 Managed Lane Project in San Mateo County** – provides major congestion relief in this vital corridor that links two of the nation's top innovation and job-creation hubs, Silicon Valley and San Francisco.
- **San Francisco Oakland Bay Bridge Demolition Project** – expedites demolition of the old bridge to complete this landmark project.
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- **Highway 99 Projects in the Central Valley** – builds new lanes and interchanges in Tulare, Madera, Livingston, Turlock and Fresno on this important freight corridor.
- **Highway 101 High Occupancy Vehicle (HOV) Lane Project in Santa Barbara County** – completes the addition of one HOV lane in each direction linking Ventura County to the City of Santa Barbara.
- **California High-Speed Rail Project** – builds the Silicon-Valley-to-Central-Valley connection and advances rail improvement to benefit commuters in the Burbank-to-Anaheim segment.
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I urge you to designate each of the listed projects as a “high priority” infrastructure project.

Sincerely,

A handwritten signature in black ink, appearing to read "Edmund G. Brown Jr.", with a long, sweeping horizontal stroke at the end.

Edmund G. Brown Jr.



OFFICE OF THE GOVERNOR

May 12, 2017

The President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

Earlier this year, I forwarded to you an initial list of ten high-priority infrastructure projects in need of expedited environmental review. It is vital we get these projects approved and permitted as soon as possible. Toward that end, I have two requests:

First, I would like to bring to your attention the fact that California has been able to cut the regulatory burden on thousands of road projects because of the federal government's willingness to delegate to the state required reviews under National Environmental Policy Act (NEPA). I have attached a fact sheet that illustrates what we have done. I am now asking you to delegate this federal authority under NEPA so that California can expedite its High-Speed Rail project.

Second, your executive order outlined a process to expedite the review and approval of permits through the White House Council on Environmental Quality. Each of the projects on the list I forwarded to you on February 24 would benefit from such an expedited review process. This could result in permits being issued in weeks rather than years.

I look forward to working with you and the members of your Administration as we together take the bold actions necessary to build and improve America's infrastructure.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Brown', written over the printed name.

Edmund G. Brown Jr.

Enclosures:

Letters dated February 24, 2017
NEPA Assignment Fact Sheet

Time Savings from NEPA Assignment in California

Number of Approvals under National Environmental Policy Act Assignment¹

23 USC 326 CEs	23 USC 327 CEs	Draft EAs	FONSI s	Draft EISs	Final EISs	RODs	Total
10,519	182	191	168	21	15	13	11,109

Data: July 1, 2007 through December 31, 2016 for Capital and Local Assistance programs.

Median Time Savings for Caltrans Environmental Approvals and Coordination Completed under NEPA Assignment Program

NEPA Environmental Approval Processing Milestones	Pre-NEPA Assignment Program Median Duration² in Months (# of approvals)	NEPA Assignment Program Median Duration in Months (# of approvals)	Median Time Savings Realized in Months
<i>Begin Environmental Studies to Draft Environmental Assessment</i>	42.3 (31)	31.6 (191)	10.7
<i>Begin Environmental Studies to Finding of No Significant Impact Approval</i>	54.1 (31)	41.2 (168)	12.9
<i>Notice of Intent to Draft Environmental Impact Statement</i>	69.9 (8)	41.9 (21)	28.0
<i>Notice of Intent to Final Environmental Impact Statement</i>	193.9 (5)	69.9 (15)	124.0
<i>Begin Coordination with U.S. Fish & Wildlife Service and National Marine Fisheries Service to Completion of Federal Endangered Species Act Section 7</i>	11.0 (25)	6.0 (126)	5.0

Data: July 1, 2007 through December 31, 2016 for Capital and Local Assistance programs.

Program Notes

- California has been assigned NEPA responsibilities under agreements with the U.S. Federal Highway Administration. (Other states that have reached similar agreements are Texas, Florida, and Ohio.)
- California is the only state to participate in the Project Delivery Pilot Program (Jul. 2007 – Sept 2012). Under this program, the state's department of transportation successfully completed five years of Federal Highway Administration audits and reporting. The state is now the only state in the monitoring phase of NEPA Assignment (other states participating in NEPA Assignment are audited regularly during the first four years of their programs).
- California's Department of Transportation works closely with all partners – local agencies, consultants, and the Federal Highway Administration – to deliver on the directive to accelerate project delivery.

¹ The number of Draft EA, Draft EIS, FONSI, Final EIS documents and RODs includes only projects under which the environmental studies phase was initiated after NEPA Assignment began. Median duration was calculated using a sample "baseline" set of projects reviewed and approved prior to initiation of NEPA Assignment.

² Caltrans Division of Environmental Analysis, Office of NEPA Assignment.



OFFICE OF THE GOVERNOR

February 24, 2017

The President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

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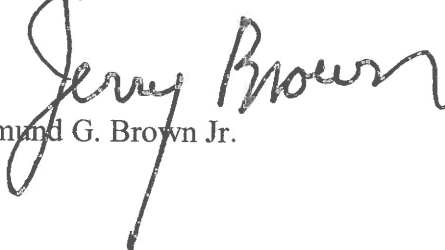
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Sincerely,

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Edmund G. Brown Jr.



OFFICE OF THE GOVERNOR

February 24, 2017

Mr. Ted Boling
Acting Chair, Council on Environmental Quality
722 Jackson Place NW
Washington, D.C. 20503

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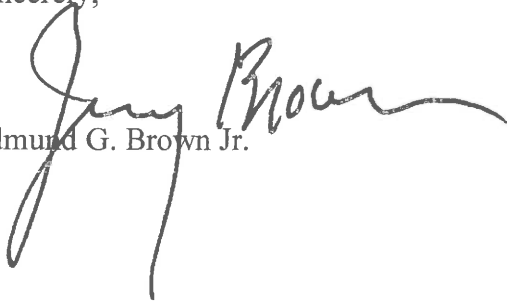
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Sincerely,

Edmund G. Brown Jr.

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Edmund G. Brown Jr.
Governor

Brian P. Kelly
Secretary

915 Capitol Mall, Suite 350B
Sacramento, CA 95814
916-323-5400
www.calsta.ca.gov

June 16, 2017

Secretary Elaine Chao
United States Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

RE: Statement of Interest – Surface Transportation Project Delivery Program

Dear Secretary Chao:

On May 13, in response to President Trump's Executive Order 13766 "Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects", Governor Edmund G. Brown Jr. sent the President a letter requesting assignment of the Federal Railroad Administration's (FRA) responsibility under the National Environmental Policy Act (NEPA) to the California High-Speed Rail Authority (Authority). Such assignment would enable expedited review and approval of the environmental documents required for the California High Speed Rail System, one of the largest infrastructure investments in the United States.

In accordance with 23 CFR Section 773.105, the State of California is declaring its interest in the Surface Transportation Project Delivery Program described in 23 U.S.C. Section 327 to assume responsibilities for compliance with NEPA and all other federal environmental laws pertaining to the review or approval of all aspects of the High-Speed Rail System, including ongoing and all future actions.

The California Department of Transportation (Caltrans) was the only state program to assume NEPA responsibilities from the Federal Highway Administration (FHWA) under the Surface Transportation Project Pilot Program authorized in the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Caltrans has successfully executed those responsibilities for almost ten years, reducing time and costs to deliver the program. The department recently renewed the agreement for another five years. The Caltrans experience in expediting the environmental process for transportation projects in California can

serve as a model as we pursue greater participation in the Surface Transportation Project Delivery Program.

California supports the Trump Administration's efforts to deliver critical transportation infrastructure projects quickly and efficiently. The first phase of our high-speed rail construction, begun after years of laborious approvals, is putting American steel, concrete and over 1,200 workers on the job, together generating over \$4 billion of economic activity. Assigning the federal responsibilities under NEPA and other environmental laws to the Authority will enable faster approvals of environmental documents, leading to faster construction and the creation of jobs - just what the President recently called for in his remarks at USDOT. Further, transferring the responsibility and the work from FRA to the Authority will free up FRA's limited resources to benefit other projects nationwide.

We understand that with assignment of NEPA obligations, the Authority will be responsible for complying with all applicable federal environmental laws and with FRA environmental regulations, policies and guidance, and will be legally responsible and liable for the environmental decisions made on all California High-Speed Rail projects. This includes projects currently under review as well as any future projects necessary for the High-Speed Rail System.

We will actively work to submit a draft application and meet all applicable program requirements under 23 CFR Part 773, and will work with USDOT on an expeditious review and assignment to maintain progress on this key infrastructure investment.

California looks forward to continuing our close working relationship with USDOT, and specifically with the FRA, during the application process and implementation of this critical program. As a Cabinet-level agency, the California State Transportation Agency (CalSTA) will coordinate State activities and provide assistance to the Authority and Caltrans, both of which are state agencies housed within CalSTA. The main point of contact for this effort is Brian Annis, Undersecretary of CalSTA. In his role at CalSTA, Mr. Annis can coordinate effectively with the Authority, as well as leverage the experience of Caltrans to ensure that the application process proceeds efficiently, providing oversight and a single point of contact for the FRA and USDOT in this effort. His contact information is below:

Brian Annis
Undersecretary
California State Transportation Agency
915 Capitol Mall, Suite 350B
Sacramento, CA 95814
916- 323-5400
Brian.Annis@calsta.ca.gov

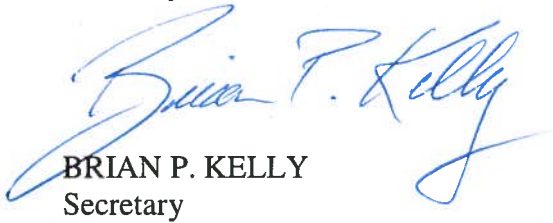
June 16, 2017

Page 3

Folowing the example of Caltrans, the Authority would like to request a pre-application coordination meeting with FRA within the next 30 days to review the program, the application requirements and next steps in the process. Mr. Annis will be reaching out to the FRA to set up that coordination meeting immediately.

Thank you for your attention to this important initiative, and we look forward to working together with USDOT to advance this and other important infrastructure investments.

Sincerely,

A handwritten signature in blue ink, reading "Brian P. Kelly". The signature is fluid and cursive, with the first name "Brian" and last name "Kelly" clearly legible. The middle initial "P." is smaller and less distinct. The signature is positioned above the printed name and title.

BRIAN P. KELLY
Secretary



U.S. Department
of Transportation

**Federal Railroad
Administration**

Deputy Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

Mr. Brian P. Kelly
Secretary
California State Transportation Agency
915 Capitol Mall, Suite 350B
Sacramento, CA 95814

JUL 12 2017

Dear Secretary Kelly:

Thank you for the June 16, 2017, letter from the California State Transportation Agency (CalSTA) to United States Department of Transportation (DOT) Secretary Elaine L. Chao, regarding CalSTA's statement of interest in DOT's surface transportation project delivery program (Program). In the letter, you refer to a request from California Governor Edmund G. Brown, Jr. to assign responsibility under the National Environmental Policy Act (NEPA) from the Federal Railroad Administration (FRA) to the California High-Speed Rail Authority (CHSRA) for environmental documents required for the California High-Speed Rail System. Secretary Chao has asked me to respond on her behalf.

On July 6th and 7th, CalSTA's Undersecretary Brian Annis, and representatives from CHSRA, participated in a productive coordination meeting with the FRA team. FRA and the California team discussed the Program's requirements, the application process, and all preconditions to a final application, including California's waiver of sovereign immunity. Based on the meeting we are committed to engaging further and look forward to a productive dialog on the potential assignment of FRA's NEPA responsibilities for the California High Speed Rail System.

Again, thank you for the letter. If you have any questions or would like to discuss further, please contact me at (202) 493-0466.

Best personal regards,

Heath Hall
Acting Administrator

cc: Undersecretary Brian Annis